

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Fort Smith Water and Sewer District, Montana (the “District”), hereby certify that the attached resolution is a true copy of a resolution entitled: “RESOLUTION AUTHORIZING THE ISSUANCE AND FIXING THE TERMS OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF UP TO \$2,759,000 TO BE ISSUED IN ANTICIPATION OF THE DISTRICT’S \$2,759,000 SEWER SPECIAL ASSESSMENT BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES B” (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 of the District 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 at said meeting, 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 AUTHORIZING THE ISSUANCE AND FIXING THE TERMS OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF UP TO \$2,759,000 TO BE ISSUED IN ANTICIPATION OF THE DISTRICT'S \$2,759,000 SEWER SPECIAL ASSESSMENT BOND (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), SERIES B

RECITALS:

WHEREAS, pursuant to the Water Pollution Control State Revolving Fund Act, Montana Code Annotated, Title 75, Chapter 5, Part 11, as amended (the "State Act"), the State of Montana (the "State") has established a revolving loan program (the "Program") to be administered by the Department of Natural Resources and Conservation of the State of Montana, an agency of the State (the "DNRC"), and by the Department of Environmental Quality of the State of Montana, an agency of the State (the "DEQ"), and has provided that a water pollution control state revolving fund (the "Revolving Fund") be created within the state treasury and all federal, state and other funds for use in the Program be deposited into the Revolving Fund, including, but not limited to, all federal grants for capitalization of a state water pollution control revolving fund under the federal Water Pollution Control Act (the "Clean Water Act"), all repayments of assistance awarded from the Revolving Fund, interest on investments made on money in the Revolving Fund and payments of principal of and interest on loans made from the Revolving Fund; and

WHEREAS, the Act provides that funds from the Program shall be disbursed and administered for the purposes set forth in the Clean Water Act and according to rules adopted by the DEQ and the DNRC; and

WHEREAS, Fort Smith Water and Sewer District, Montana (the "District"), has applied to the DNRC for the B Loan (as hereinafter defined) from the Revolving Fund to enable the District to finance, refinance or reimburse itself for a portion of the costs of the 2023 Project (as hereinafter defined) which will carry out the purposes of the Clean Water Act, to fund a deposit to the Reserve Account (as hereinafter defined) and to pay costs of issuance; and

WHEREAS, the DNRC offered to make loans in the total principal amount of \$2,759,000 available to the District; and

WHEREAS, the Board has determined that it is in the best interest of the District to issue a bond anticipation note, Series 2023, in the maximum principal amount of \$2,759,000 (the "Series 2023 Note"), which the District will repay in full by issuing its Series B Bond (as hereinafter defined) to the DNRC; and

WHEREAS, the DNRC has agreed to purchase the Series 2023 Note and the Series B Bond; and

WHEREAS, the District is authorized under applicable laws, ordinances and regulations to adopt this Note Resolution and to issue the Series 2023 Note in anticipation of the Series B Bond; and

WHEREAS, the DNRC will fund its purchase of the Series 2023 Note and Series B Bond entirely with Recycled Money (as hereinafter defined).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE DISTRICT, AS FOLLOWS:

ARTICLE I.

DEFINITIONS, RULES OF CONSTRUCTION, AND APPENDICES

Section 1.1 Definitions. In this Resolution, unless a different meaning clearly appears from the context:

“Accountant” or “Accountants” means an independent certified public accountant or a firm of independent certified public accountants satisfactory to the DNRC.

“Authorized DNRC Officer” means the Director or Deputy Director of the DNRC, and, when used with reference to an act or document, also means any other individual authorized by the Director of the DNRC to perform such act or sign such document.

“B Loan” means the loan made to the District by the DNRC pursuant to the Program in the maximum amount of the Committed Amount to pay costs of the 2023 Project and to pay costs of issuance.

“Board” means the Board of Directors of the District.

“Bond Counsel” means any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, selected by the Borrower and acceptable to the DNRC.

“Business Day” means any day other than a Saturday, Sunday, legal holiday in the State or day on which banks in the State are authorized or required by law to close.

“Clean Water Act” means the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251-1387, as amended, and all regulations, rules and interpretations issued by the EPA thereunder.

“Closing” means the date of delivery of the Series 2023 Note to the DNRC.

“Code” means the Internal Revenue Code of 1986.

“Collateral Documents” means any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the District under this Resolution and the Series 2023 Note. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Resolution shall be without effect.

“Committed Amount” means \$2,759,000, which is the amount committed to be lent by the DNRC to the District, as such amount may be reduced.

“Construction Fund” means the Fund established pursuant to Section 5.1.

“Consultant” means a nationally recognized consultant or firm of consultants, or an independent engineer or firm of independent engineers, or an Accountant, which in any case is qualified and has skill and experience in the preparation of financial feasibility studies or projections for facilities similar to the System or the 2023 Project, selected by the Borrower and satisfactory to the DNRC.

“Counsel” means an attorney duly admitted to practice law before the highest court of any state and satisfactory to the DNRC.

“Debt” means, without duplication, (1) indebtedness of the District for borrowed money or for the deferred purchase price of property or services; (2) the obligation of the District as lessee under leases which should be recorded as capital leases under generally accepted accounting principles; and (3) obligations of the District under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clause (1) or (2) above.

“DEQ” means the Department of Environmental Quality of the State of Montana, an agency of the State, or any successor to its powers, duties and obligations under the State Act or the EPA Agreements.

“District” means Fort Smith Water and Sewer District, Montana.

“DNRC” means the Department of Natural Resources and Conservation of the State of Montana, an agency of the State, and any successor to its powers, duties and obligations under the Act.

“Enabling Act” means Montana Code Annotated, Title 7, Chapter 13, Parts 22 and 23, as amended, which authorizes the District to own and operate the System, to undertake the 2023 Project and to issue the Series B Bond to finance the costs of the 2023 Project.

“EPA” means the Environmental Protection Agency, an agency of the United States of America, and any successor to its functions under the Clean Water Act.

“EPA Agreements” means all capitalization grant agreements and other written agreements between the DEQ, DNRC and the EPA concerning the Program.

“EPA Capitalization Grant” means a grant of funds to the State by the EPA under Title VI of the Clean Water Act and any grant made available by the EPA for deposit in the Revolving Fund pursuant to Section 205(m) of the Clean Water Act.

“Governmental Unit” means governmental unit as such term is used in Section 145(a) of the Code.

“Indenture” means the Indenture of Trust, dated as of June 1, 1991, between the Board of Examiners of the State and the Trustee, as such may be supplemented or amended from time to time in accordance with the provisions thereof, pursuant to which, among other things, the State Bonds are to be or have been issued.

“Person” means any individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, association, joint stock company, trust, unincorporated organization or Public Entity.

“Program” means the Water Pollution Control State Revolving Fund Program established by the State Act.

“Project” means an improvement, betterment, reconstruction or extension of the System, including the 2023 Project.

“Public Entity” means a State agency, city, town, municipality, irrigation district, county water and sewer district, a soil conservation district or other public body created pursuant to State law or an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

“Recycled Money” means payments and prepayments of principal of loans made under the Program, and any other amounts transferred to the Principal Subaccount in the Revenue Subaccount in the State Allocation Account (as such terms are defined in the Indenture).

“Regulations” means the Treasury Regulations, whether final, temporary or proposed, promulgated under the Code.

“Resolution” means this Note Resolution as it may from time to time be amended or supplemented in accordance with its terms.

“Series B Bond” means the up to \$2,759,000 Sewer Special Assessment Bond (DNRC Water Pollution Control State Revolving Loan Program), Series B, to be issued to the DNRC.

“Series 2023 Note” means the District’s Sewer System Bond Anticipation Note, Series 2023, to be issued in the maximum principal amount of \$2,759,000 in anticipation of the issuance of the Series B Bond pursuant to this Resolution.

“Series 2023A Bond” means the \$750,000 Subordinate Lien Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Taxable Series 2023A, to be issued to the DNRC to evidence the 2023A Loan.

“State” means the State of Montana.

“State Act” means Montana Code Annotated, Title 75, Chapter 5, Part 11, as amended from time to time.

“Supplemental Resolution” means any resolution supplemental or amendatory to the Resolution.

“System” means the sewer system of the Borrower and all extensions, improvements and betterments thereof or hereafter constructed and acquired, including, without limitation, the 2023 Project.

“Trustee” means U.S. Bank Trust Company, National Association, in Seattle, Washington, or any successor trustee under the Indenture.

“2023 Note Account” means the account by that name created by Section 5.2 hereof.

“2023 Project” means the designing, engineering, and construction of the facilities, improvements and activities financed, refinanced or the cost of which is being financed by or reimbursed to the Borrower with proceeds of the B Loan, described in Appendix A hereto.

Section 1.2 Other Rules of Construction. For all purposes of this Resolution, except where the context clearly indicates otherwise:

- (a) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted government accounting standards.
- (b) Terms in the singular include the plural and vice versa.
- (c) All references to time shall refer to Helena, Montana time, unless otherwise provided herein.
- (d) All references to mail shall refer to first-class mail postage prepaid.
- (e) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.
- (f) “Or” is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.
- (g) References to Articles and Sections are to the Articles and Sections of this Resolution, unless the context otherwise requires.

Section 1.3 Appendices. Attached to this Resolution and hereby made a part hereof are the following Appendices:

Appendix A: a description of the 2023 Project and estimated 2023 Project budget;

Appendix B: the form of the Series 2023 Note; and

Appendix C: additional agreements and representations of the Borrower.

ARTICLE II.

REPRESENTATIONS AND COVENANTS

Section 2.1 Representations. The District represents as follows:

(a) Organization and Authority. The District:

(i) is duly organized and validly existing as a political subdivision of the State;

(ii) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the System and to carry on its current activities with respect to the System, to adopt this Resolution and to enter into the Collateral Documents and to issue the Series 2023 Note, the Series B Bond and to carry out and consummate all transactions contemplated by this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents;

(iii) is a Governmental Unit and a Public Entity; and

(iv) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Resolution, the Series 2023 Note and the Collateral Documents and the incurrence of the Debt evidenced by the Series B Bond in the maximum amount of the Committed Amount.

(b) Pending Litigation. There is no litigation or proceeding pending, or to the knowledge of the District threatened, against or affecting the District in any court or before or by any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the existence, corporate or otherwise, of the District, or the ability of the District to make all payments and otherwise perform its obligations under this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents, or the financial condition of the District, or the transactions contemplated by this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents or the validity and enforceability of this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents.

(c) Borrowing Legal and Authorized. The adoption of this Resolution, the execution and delivery of the Series 2023 Note, the Series B Bond and the Collateral Documents and the consummation of the transactions provided for in this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents and compliance by the District with the provisions of this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents:

(i) are within the powers of the District and have been or will be duly authorized by all necessary action on the part of the District; and

(ii) do not and will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the District pursuant to any

ordinance, resolution, indenture, loan agreement or other agreement or instrument (other than this Resolution and any Collateral Documents) to which the District is a party or by which the District or its property may be bound, nor will such action result in any violation of the provisions of any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the District, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2023 Note, the Series B Bond and the Collateral Documents, would constitute a default under this Resolution or the Collateral Documents. The District is not in violation of any term of any agreement, bond resolution, trust indenture, charter or other instrument to which it is a party or by which it or its property may be bound which violation would materially and adversely affect the transactions contemplated hereby or the compliance by the District with the terms hereof or of the Series 2023 Note, the Series B Bond and the Collateral Documents.

(e) Governmental Consent. The District has obtained or made all permits, findings and approvals required to the date of adoption of this Resolution by any governmental body or officer for the making and performance by the District of its obligations under this Resolution, the Series 2023 Note and the Collateral Documents or for the 2023 Project, the financing or refinancing thereof or the reimbursement of the District for the costs thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental authority (other than those, if any, already obtained) is required on the part of the District as a condition to adopting this Resolution, issuing the Series 2023 Note or entering into the Collateral Documents and the performance of the District's obligations hereunder and thereunder.

(f) Binding Obligation. This Resolution, the Series 2023 Note and any Collateral Document to which the District is a party are the valid and binding obligations and agreements of the District, enforceable against the District in accordance with their terms except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, moratorium, reorganization, insolvency or similar laws affecting creditors' rights and general principles of equity.

(g) The 2023 Project. The 2023 Project consists and will consist of the facilities, improvements and activities described in Appendix A, as such Appendix A may be amended from time to time. The 2023 Project comprises facilities of a type that, as determined by the EPA, will facilitate compliance with the national primary water pollution control regulations applicable to the System or will otherwise significantly further the health protection objectives of the Clean Water Act.

(h) The System. The System is a "public sewage system" within the meaning of the State Act and the Clean Water Act in that it is a public sewage system that provides collection, transportation, treatment or disposal of sewage for consumption, that serves not less than 15 service connections used by year-round residents of the 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

(i) Full Disclosure. There is no fact that the District has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the District can now foresee), except for pending or proposed legislation or regulations that are a matter of general public information, that will materially and adversely affect the properties, operations and finances of the System, the District's status as a Public Entity and Governmental Unit, its ability to own and operate the System in the manner it is currently operated or the District's ability to perform its obligations under this Resolution, the Series 2023 Note and the Collateral Documents.

(j) Compliance with Law. The District:

(i) is in compliance with all laws, ordinances, governmental rules and regulations and court or other governmental orders, judgments and decrees to which it is subject and which are material to the properties, operations and finances of the System or its status as a Public Entity and Governmental Unit; and

(ii) has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of the System and the operation thereof and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for the System and the operation thereof, which failure to obtain might materially and adversely affect the ability of the Borrower to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the Borrower's ability to perform its obligations under this Resolution, the Series 2023 Note and the Collateral Documents.

Section 2.2 Covenants.

(a) Insurance. The District at all times shall keep and maintain with respect to the System property and casualty insurance and liability insurance with financially sound and reputable insurers, or self-insurance as authorized by State law, against such risks and in such amounts, and with such deductible provisions, as are customary in the State in the case of entities of the same size and type as the District and similarly situated and shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for all such insurance. Nothing herein shall be construed to prohibit or preclude the District from self-insuring or participating in a self-insurance program in compliance with the provisions of Montana law. All such insurance policies shall name the DNRC as an additional insured to the extent permitted under the policy or program of insurance of the District. Each policy must provide that it cannot be cancelled by the insurer without giving the District and the DNRC 30 days' prior written notice. The District shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 2.2(a) and of each renewal, replacement, change in coverage or deductible under or amount of or cancellation of each such insurance policy and the amount and coverage and deductibles and carrier of each new or replacement policy. Such notice shall specifically note any adverse change as being an adverse change. The District shall deliver to the DNRC at Closing a certificate providing the information required by this Section 2.2(a).

(b) Right of Inspection and Notice of Change of Location. The DNRC, the DEQ and the EPA and their designated agents shall have the right at all reasonable times during normal business hours and upon reasonable notice to enter into and upon the property of the District for the purpose of inspecting the System or any or all books and records of the District relating to the System.

(c) Further Assurance. The District shall execute and deliver to the DNRC all such documents and instruments and do all such other acts and things as may be necessary or required by the DNRC to enable the DNRC to exercise and enforce its rights under this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents and to realize thereon, and record and file and re-record and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the DNRC to validate, preserve and protect the position of the DNRC under this Resolution, the Series 2023 Note, the Series B Bond and the Collateral Documents.

(d) Maintenance of Security; Recordation of Interest.

(i) The District shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of this Resolution and the Collateral Documents so long as any amount is owing under this Resolution or the Series 2023 Note or the Series B Bond;

(ii) The District shall forthwith, after the execution and delivery of the Series 2023 Note and the Series B Bond and thereafter from time to time, cause this Resolution and any Collateral Documents granting a security interest in revenues or real or personal property and any financing statements or other notices or documents relating thereto to be filed, registered and recorded in such manner and in such places as may be required by law in order to perfect and protect fully the lien and security interest hereof and thereof and the security interest in them granted by this Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(iii) Except to the extent it is exempt therefrom, the District shall pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of the documents described in subparagraph (ii), and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Series 2023 Note, the Series B Bond and the Collateral Documents and the documents described in subparagraph (ii).

(e) Financial Information. The District will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the monthly gross revenues derived from its operation, and the segregation and application of the gross revenues, in such reasonable detail as may be determined by the District in accordance with generally accepted governmental

accounting practice and principles. It will cause such books to be maintained on the basis of the same fiscal year as that utilized by the District. The District shall, within 270 days after the close of each fiscal year, cause to be prepared and supply to the DNRC a financial report with respect to the System for such fiscal year. The District acknowledges and agrees more detailed requirements regarding financial information and reports will be set forth in the resolution or resolutions of the District pursuant to which the Series B Bond is authorized.

(f) Project Accounts. The District shall maintain Project accounts in accordance with generally accepted government accounting standards, and as separate accounts, as required by Section 602(b)(9) of the Clean Water Act.

(g) Records. After reasonable notice from the EPA or the DNRC, the District shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Clean Water Act, as provided in Section 606(e) of the Clean Water Act.

(h) Compliance with Clean Water Act. The District has complied and shall comply with all conditions and requirements of the Clean Water Act pertaining to the Loan and the 2023 Project and shall maintain sufficient financial, managerial and technical capability to continue to effect such compliance.

(i) Compliance with DEQ Requirements. The District shall comply with the plans, specifications and other requirements for public sewer systems established by the DEQ, as required by Section 75-5-1113(1)(g) of the State Act.

Section 2.3 Assessments. Pursuant to Resolution No. 10-27-23, adopted by the Board on October 27, 2023, and Resolution No. _____, adopted by the Board on December 8, 2023 (collectively, the “Assessment Resolutions”), the Board approved a special assessment methodology to levy special assessments against property located in the District and benefitted by the System and pledge the collections of the special assessments, in whole or in part, with any other revenue of the District to the payment of the Series B Bond. Each benefitted 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 2023 Project and costs incidental thereto to be financed with the Series B Bond.

ARTICLE III.

USE OF PROCEEDS; THE 2023 PROJECT

Section 3.1 Use of Proceeds. The District shall apply the proceeds of the Series 2023 Note solely to the financing, refinancing or reimbursement of a portion of the costs of the 2023 Project and paying costs of issuing the Series 2023 Note, or to transfer amounts to the 2023 Note Account described in Section 5.2.

Section 3.2 The 2023 Project. The 2023 Project may be changed and the description thereof in Appendix A may be amended from time to time by the District but only after delivery to the DNRC of the following:

(a) A certificate of the District setting forth the amendment to Appendix A and stating the reason therefor, including statements as to whether the amendment would cause an increase or decrease in the cost of the 2023 Project or an increase or decrease in the amount of proceeds of the Series 2023 Note or the B Loan which will be required to complete the 2023 Project and whether the change will materially accelerate or delay the construction schedule for the 2023 Project;

(b) A written consent to such change in the 2023 Project by an Authorized DNRC Officer; and

(c) An Opinion or Opinions of Bond Counsel stating that the 2023 Project, as constituted after such amendment, is, and was at the time the State Bonds were issued, eligible for financing under the Act and under the Enabling Act, such amendment will not violate the Act or the Enabling Act and such amendment will not adversely affect the exclusion of interest on the State Bonds or the Series 2023 Note or the Series B Bond from gross income for purposes of federal income taxation. Such an Opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed.

The District acknowledges and agrees that an increase in the principal amount of the Series 2023 Note or the B Loan may be made only upon an application to the DEQ and the DNRC, in such form as the DEQ shall specify, which is approved by the DEQ and the DNRC, in their sole and absolute discretion, and adoption by the governing body of the District of a Supplemental Resolution authorizing the additional loan and delivery of written certifications by officers of the District to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in this Resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan, including compliance with applicable tests for the incurrence of such Debt. No assurance can be given that any additional loan funds will be available under the Program at the time of any such application or thereafter. The District acknowledges and agrees that neither the DEQ, the DNRC, the Trustee nor any of their agents, employees or representatives shall have any liability to the District and have made no representations to the District as to the sufficiency of the Series 2023 Note or the B Loan to pay costs of the 2023 Project or as to the availability of additional funds under the Program to increase the principal amount of the Series 2023 Note or the B Loan.

Section 3.3 2023 Project Representations and Covenants. The District hereby represents to and covenants with the DNRC that:

(a) all construction of the 2023 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations and standards;

(b) all future construction of the 2023 Project will be done only pursuant to fixed price construction contracts. The District shall obtain a performance and payment bond from the contractor for each construction contract in the amount of 100% of the construction price and ensure that such bond is maintained until construction is completed to the District's, the DNRC's and the DEQ's satisfaction;

(c) all future construction of the 2023 Project will be done in accordance with plans and specifications on file with the DNRC and the DEQ, provided that changes may be made in such plans and specifications with the written consent of an Authorized DNRC Officer and the DEQ;

(d) all laborers and mechanics employed by contractors and subcontractors on the 2023 Project have been and will be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code, as amended;

(e) in the event the 2023 Project is required to comply with the American iron and steel provisions of the 2014 Act (defined below), all the iron and steel products used in the 2023 Project are produced in the United States in compliance with and within the meaning of the “American Iron and Steel” provisions of Section 436 of the Consolidated Appropriations Act of 2014 (P.L. 113-76), as amended (the “2014 Act”), as those provisions are further interpreted by applicable EPA guidance, except to the extent waivers to the American Iron and Steel requirements of the 2014 Act have been granted by the EPA;

(f) in the event the 2023 Project is required to comply with the provisions of BABA (defined below), all iron and steel, manufactured products, and construction materials used in the 2023 Project are produced in the United States in compliance with and within the meaning of the provisions of the Build America, Buy America Act (“BABA”) of the Infrastructure Investment and Jobs Act (P.L. 117-58, div. G, title IX, Nov. 15, 2021, 135 Stat. 1294, as amended by P.L. 117-67, div. B, title II, §10254, Aug. 9, 2022, 136 Stat. 1502, and as further amended), such provisions being at Sec. 70901 et seq. of the Infrastructure Investment and Jobs Act, as those provisions are further interpreted by applicable EPA guidance, except to the extent waivers to the requirements of BABA have been granted by the EPA; and

(g) the 2023 Project is a project of the type permitted to be financed under the Enabling Act, the State Act and the Program and Title VI of the Clean Water Act; and

(h) the District will undertake the 2023 Project promptly and will cause the 2023 Project to be completed as promptly as practicable with all reasonable dispatch, except only as completion may be delayed by a cause or event not reasonably within the control of the District; it is estimated by the District that the 2023 Project will be substantially completed by December 31, 2024.

Section 3.4 Completion or Cancellation or Reduction of Costs of the 2023 Project.

(a) Upon completion of the 2023 Project, the District shall deliver to the DNRC a certificate stating that the 2023 Project is complete and stating the remaining amount, if any, of the Committed Amount. If Appendix A describes two or more separate projects as making up the 2023 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2023 Project is cancelled or reduced or its costs are reduced or for any other reason the District will not require the full Committed Amounts, the

District shall promptly notify the DNRC in writing of such fact and the amount of the undisbursed Committed Amount.

(c) The District may not request an advance on the B Loan after the date that is 180 days following the date of substantial completion of the 2023 Project (such date, the “Loan Close Out Date”), and by no later than the Loan Close Out Date, the DNRC and the DEQ will close out and cease administering the B Loan, unless an extension is granted in writing by and in the sole discretion of the DEQ.

ARTICLE IV.

THE SERIES 2023 NOTE

Section 4.1 General Terms. Pursuant to Section 7-7-109 and Title 7, Chapter 13, Parts 22 and 23, Montana Code Annotated, the District shall forthwith issue the Series 2023 Note in the maximum principal amount of \$2,759,000. The Series 2023 Note shall be dated as of the date of its delivery. Upon each disbursement of the Series 2023 Note proceeds, the DNRC shall enter the amount advanced on Schedule A attached to the Series 2023 Note under “Advances” and the total amount advanced under the Resolution, including such disbursement, under “Total Amount Advanced.” The Series 2023 Note shall be lettered and numbered R-1 and shall mature, subject to redemption as herein provided, on December 20, 2026 (the “Stated Maturity”), and shall bear interest from the date of each disbursement of the principal of the Series 2023 Note at 1.75% per annum until paid. Principal then disbursed and interest thereon shall be payable on the Stated Maturity or earlier date of redemption, if any. The principal of and interest on the Series 2023 Note shall be payable in lawful money of the United States of America by the District Secretary to the DNRC, the registered owner of the Series 2023 Note, at its address as it appears in the Note Register of the District.

To obtain a disbursement of a portion of the principal of the Series 2023 Note to pay costs of the 2023 Project, the District shall submit simultaneously to the DNRC a signed request for disbursement on the form or forms prescribed by the DNRC, with all attachments required by such form or forms. The DNRC will notify the District whether the signed request warrants a disbursement under the Series 2023 Note. The District may obtain disbursements only for costs which have been legally incurred and are due and payable. All disbursements of proceeds will be made to the District only upon proof that cost was incurred. If all or a portion of a disbursement of principal of the Series 2023 Note is made to reimburse the District for 2023 Project costs paid by it prior to the date of issuance of the Series 2023 Note, the District shall present on such issuance date the items required by the above provisions of this Section 4.1 relating to such costs. Upon making each disbursement of principal, the DNRC shall note such disbursement on Schedule A to the Series 2023 Note. The District’s obligations under this Resolution shall commence on the date hereof unless otherwise provided in this Resolution. However, the obligation to make payments under this Section 4.1 shall commence only upon the first disbursement by the DNRC of proceeds of the Series 2023 Note.

Section 4.2 Registration. The Series 2023 Note shall be fully registered as to both principal and interest and shall initially be registered in the name of and payable to the DNRC. The District Secretary shall act as Note Registrar and as such shall establish and maintain a Note

Register for the purpose of recording the names and addresses of the registered owners of the Series 2023 Note and the date of registration of any transfer.

Section 4.3 Redemption. The Series 2023 Note shall be subject to redemption in whole but not in part, on any date, at the principal amount thereof plus accrued interest, without premium. Not less than 15 days before the date specified for redemption thereof, the District Secretary shall mail notice of the redemption to the registered owner thereof at the address as it appears on the registration books of the Note Registrar.

Section 4.4 Form of Series 2023 Note. The Series 2023 Note shall be prepared in substantially the form attached as Appendix B to this Note Resolution, which is hereby incorporated herein and made a part hereof, with such appropriate variations, omissions and insertions as are permitted or required by this Note Resolution.

Section 4.5 Assignment. The Series 2023 Note shall be transferable by the registered owner or its attorney duly authorized in writing upon presentation thereof to the District Secretary together with a written instrument of transfer satisfactory to the District Secretary duly executed by the registered owner or its attorney. Such transfer shall be noted on the Series 2023 Note. Upon request of the registered owner or transferee, the District shall execute and deliver another Series 2023 Note of a principal amount equal to the outstanding principal amount of the Series 2023 Note and maturing at the same time as the Series 2023 Note so transferred, and the Series 2023 Note so surrendered for transfer shall be promptly cancelled by the District Secretary. No service charge shall be made for such transfer, but the District may require payment of a sum sufficient to cover any tax, fee or governmental charge or other expense incurred by the District with respect to such transfer. Until and unless otherwise provided by resolution of this Board, the following shall be a sufficient written instrument of transfer within the meaning of this Section 4.5:

FORM OF ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto: _____ the Sewer System Bond Anticipation Note, Series 2023, No. R-1, of Fort Smith Water and Sewer District, Montana, and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the Note on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

Registered Owner

Section 4.6 Preparation, Execution and Delivery of Series 2023 Note. The Series 2023 Note shall be issued and delivered to the DNRC upon payment of the purchase price thereof. The Series 2023 Note shall be prepared under the direction of the District Secretary and when so prepared shall be executed on behalf of the District by the President and the District Secretary. When the Note has been so executed, it shall be delivered by the District Secretary to the DNRC, and the DNRC shall not be required to see to the application thereof.

Section 4.7 The B Loan. The District will observe and perform all of its obligations and duties under and do all acts and things as may be necessary or appropriate to satisfy the terms and conditions of the B Loan, and all other regulations and requirements of the DNRC relating to the B Loan and the receipt of the proceeds therefrom.

Section 4.8 Issuance of Series B Bond. The Series 2023 Note shall be payable solely from and secured by amounts pledged and appropriated and from time to time credited to the 2023 Note Account created pursuant to Section 5.2 hereof, including the proceeds of the Series B Bond. The Series 2023 Note is issued in anticipation of the proceeds to be received upon the sale and issuance of up to \$2,759,000 in principal amount of the Series B Bond to be issued and sold by the District prior to the maturity of the Series 2023 Note to provide funds to be used, with other available funds of the District, to refund the principal amount thereof then outstanding and interest accrued thereon to the date of redemption, to fund a deposit to a debt service reserve account and to pay costs of issuance of the Series B Bond. The District has received a commitment from the DNRC to purchase the Series B Bond.

The District hereby covenants and agrees for the benefit from time to time of the owners of the Series 2023 Note that on or before the Stated Maturity, it will authorize, issue and offer for sale and use its best efforts to sell the Series B Bond to refund the Series 2023 Note at its stated maturity.

Section 4.9 Levy of Assessments. The Series B Bond shall be payable from the special assessments levied or to be levied in the District. The Series B Bond will be authorized by a subsequent resolution fixing the terms and conditions of the Series B Bond, and shall be secured by a debt service reserve account. The Borrower hereby covenants and agrees that, upon issuance of the Series B Bond, it will (i) establish a debt service reserve account and shall cause the balance therein to equal the reserve requirement for the Series B Bond, and (ii) levy special assessments against benefited properties in the District, in a principal amount equal to \$2,759,000 or, if less, the aggregate principal amount of the Series B Bond, on the terms and conditions as shall be specified in a subsequent resolution fixing the terms and conditions of the Series B Bond.

Section 4.10 Application of Proceeds. All of the proceeds of the Series 2023 Note shall be deposited in the Construction Account established in and pursuant to Section 5.1 hereof and used solely to defray expenses of the 2023 Project and costs of issuance or to the transfer to the 2023 Note Account created in Section 5.2 hereof, to the extent necessary, of amounts sufficient for the payment of interest and principal due upon the Series 2023 Note.

ARTICLE V.

CONSTRUCTION ACCOUNT AND 2023 NOTE ACCOUNT

Section 5.1 2023 Construction Account. There is hereby created a special fund designated as the “2023 Construction Account” (the “Construction Account”), to be held and administered by the Secretary separate and apart from all other funds of the District. The District hereby appropriates to the Construction Account: (a) the proceeds of the sale of the Series 2023 Note and, upon its issuance, the proceeds of the Series B Bond to be used to pay costs of the

2023 Project and costs of issuance of the Series B Bond, but not to redeem the Series 2023 Note, if any, and (b) all income derived from the investment of amounts on hand in the Construction Account. The Construction Account shall be used solely to defray expenses of the 2023 Project, including but not limited to the transfer to the 2023 Note Account described in Section 5.2 hereof of amounts sufficient for the payment of interest and principal, if any, due upon the Series 2023 Note.

Section 5.2 2023 Note Account. So long as any principal of the Series 2023 Note is outstanding or interest thereon unpaid, the Secretary of the District shall maintain a separate and special 2023 Note Account (the “2023 Note Account”) to be used for no purpose other than the payment of the principal of and interest on the Series 2023 Note. The District irrevocably appropriates to the 2023 Note Account: (a) all proceeds of the Series B Bond to be applied to pay and redeem the Series 2023 Note, and (b) such other money as shall be received and appropriated to the 2023 Note Account from time to time.

ARTICLE VI.

TAX MATTERS.

Section 6.1 Use of Project and System. The 2023 Project and the System will be owned and operated by the District and available for use by members of the general public on a substantially equal basis. The District shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the 2023 Project or the System or security for the payment of the Series 2023 Note which might cause the Series 2023 Note to be considered a “private activity bond” or “private loan bond” within the meaning of Section 141 of the Code.

Section 6.2 General Covenant. The District covenants and agrees with the owners from time to time of the Series 2023 Note that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2023 Note to become includable in gross income for federal income tax purposes under the Code and the Regulations, and covenants to take any and all actions within its powers to ensure that the interest on the Series 2023 Note will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 6.3 Arbitrage Certification. The President and the District Secretary, being the officers of the District charged with the responsibility for issuing the Series 2023 Note pursuant to this Note Resolution, are authorized and directed to execute and deliver to the DNRC a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2023 Note, it is reasonably expected that the proceeds of the Series 2023 Note will be used in a manner that would not cause the Series 2023 Note to be an “arbitrage bond” within the meaning of Section 148 of the Code and the Regulations.

Section 6.4 Arbitrage Rebate Exemption.

(a) The District hereby represents that the Series 2023 Note qualifies for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the District represents:

(i) Substantially all (not less than 95%) of the proceeds of the Series 2023 Note (except for amounts to be applied to the payment of costs of issuance) will be used for local governmental activities of the District.

(ii) The aggregate face amount of all “tax-exempt bonds” (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds) issued by or on behalf of the District and all subordinate entities thereof during 2023 is reasonably expected not to exceed \$5,000,000. To date in 2023, the District has issued no tax-exempt bonds, and in the calendar years 2018 through 2022, the District issued no tax-exempt bonds.

(b) If notwithstanding the provisions of paragraph (a) of this Section 6.4, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Series 2023 Note, the District hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

Section 6.5 Information Reporting. The District shall file with the Secretary of the Treasury, not later than February 15, 2024, a statement concerning the Series 2023 Note containing the information required by Section 149(e) of the Code.

Section 6.6 “Qualified Tax-Exempt Obligation.” Pursuant to Section 265(b)(3)(B)(ii) of the Code, the District hereby designates the Series 2023 Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code. The District has not designated any obligations in 2023 under Section 265(b)(3) other than the Series 2023 Note. The District hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including “qualified 501(c)(3) bonds” but excluding other “private activity bonds,” as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the District and all “subordinate entities” of the District in 2023 in an amount greater than \$10,000,000.

ARTICLE VII.

MISCELLANEOUS

Section 7.1 Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

DNRC: Department of Natural Resources
and Conservation
1539 Eleventh Avenue
P. O. Box 201601
Helena, Montana 59620-1601

Attn: Conservation and Resource Development Division

District: Fort Smith Water and Sewer District
P.O. Box 7596
Fort Smith, Montana 59035
Attn: District Secretary

Any of the above parties may, by notice in writing given to the others, designate any further or different addresses to which subsequent notices or other communications shall be sent.

Section 7.2 Binding Effect. This Resolution shall inure to the benefit of and shall be binding upon the DNRC, the District and their respective successors and assigns.

Section 7.3 Severability. If any provision of this Resolution shall be determined to be unenforceable at any time, it shall not affect any other provision of this Resolution or the enforceability of that provision at any other time.

Section 7.4 Amendments. This Resolution may not be effectively amended without the written consent of the DNRC so long as the DNRC holds any Bonds.

Section 7.5 Applicable Law. This Resolution shall be governed by and construed in accordance with the laws of the State.

Section 7.6 Captions; References to Sections. The captions in this Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Resolution. References to Articles and Sections are to the Articles and Sections of this Resolution, unless the context otherwise requires.

Section 7.7 Right of Others to Perform District's Covenants. In the event the District shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the DNRC or the provider of any Collateral Document may (but shall not be obligated to) remedy such default for the account of the District and make advances for that purpose. No such performance or advance shall operate to release the District from any such default and any sums so advanced by the DNRC or the provider of any Collateral Document shall be paid immediately to the party making such advance and shall bear interest at the rate of ten percent (10%) from the date of the advance until repaid. The DNRC and the provider of any Collateral Document shall have the right to enter the 2023 Project or the facility or facilities of which the 2023 Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section.

Section 7.8 Authentication of Transcript. The officers of the District are hereby authorized and directed to furnish to the DNRC and to Bond Counsel certified copies of all proceedings relating to the issuance of the Series 2023 Note and such other certificates and affidavits as may be required to show the right, power and authority of the District to issue the Series 2023 Note and the Series B Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the District as to the truth of the statements of fact purported to be shown thereby.

Section 7.9 Effective Date. This Note Resolution shall take effect immediately.

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

President of the Board of Directors

Attest: _____
District Secretary

APPENDIX A

Description of the 2023 Project:

The 2023 Project consists of the 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.

Estimated Budget for the 2023 Project

MCEP	RRGL	ARPA Competitive Grant	Big Horn County Minimum Allocation	First Interstate Grant/Big Horn River	Columbia	EDA	2023A Loan	Series 2023 Note	Total
\$ 20,000.00	\$ 35,000.00	\$ 25,000.00		\$ 928.96				\$ 29,071.04	\$ 110,000.00
								\$ 35,000.00	\$ 35,000.00
								\$ 25,000.00	\$ 25,000.00
								\$ 65,950.00	\$ 65,950.00
								\$ 20,000.00	\$ 20,000.00
		\$ 50,076.96							\$ 50,076.96
		\$ 4,859.50							\$ 4,859.50
								\$ 9,900.00	\$ 9,900.00
\$ 75,000.00									\$ 75,000.00
\$ 100,000.00	\$ 35,000.00	\$ 279,863.54	\$ 104,800.00	\$ 920.00	\$ 25,000.00				\$ 545,583.54
\$ 200,000.00		\$ 208,500.00						\$ 336,500.00	\$ 745,000.00
						\$ 2,000,000.00		\$ 1,512,643.00	\$ 3,512,643.00
\$ 355,000.00	\$ 55,000.00	\$ 1,431,700.00	\$ 665,152.00				\$ 750,000.00	\$ 39,049.00	\$ 3,295,901.00
				\$ 4,651.04				\$ 685,886.96	\$ 690,538.00
\$ 750,000.00	\$ 125,000.00	\$ 2,000,000.00	\$ 769,952.00	\$ 6,500.00	\$ 25,000.00	\$ 2,000,000.00	\$ 750,000.00	\$ 2,759,000.00	\$ 9,185,452.00

APPENDIX B

[Form of the Series 2023 Note]

UNITED STATES OF AMERICA
STATE OF MONTANA
BIG HORN COUNTY

FORT SMITH WATER AND SEWER DISTRICT

SEWER SYSTEM BOND ANTICIPATION NOTE,
SERIES 2023

No. R-1

\$2,759,000.00

<u>Maturity</u>	<u>Date of Original Issue</u>
December 20, 2026	December 20, 2023

REGISTERED OWNER: DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION OF THE STATE OF MONTANA

PRINCIPAL AMOUNT: TWO MILLION SEVEN HUNDRED FIFTY-NINE
THOUSAND AND NO/100 DOLLARS

FOR VALUE RECEIVED, FORT SMITH WATER AND SEWER DISTRICT (the “District”), a duly organized political subdivision of the State of Montana, acknowledges itself to be indebted and hereby promises to pay to the registered owner named above, or registered assigns, but solely out of the 2023 Note Account (the “2023 Note Account”), the principal sum equal to the sum of the amounts entered on Schedule A hereto under “Total Amount Advanced,” on the maturity date specified above, with interest on each such amount from the date the amount is advanced hereunder at the rate of 1.75% per annum on the amount advanced, until all principal and interest thereon is paid or discharged, all subject to the provisions hereof relating to the redemption of this Note before maturity. Interest shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. The interest hereon and the principal hereof are payable in lawful money of the United States of America to the registered owner of this Note as it appears in the Note Register of the District.

Upon each disbursement of proceeds of this Note, the registered owner of all or a portion of this Note (the “Holder”) shall enter the amount advanced on Schedule A attached hereto under “Advances” and the total amount advanced under this Resolution, including such disbursement, under “Total Amount Advanced.”

This Note is one in number and comprises all of a duly authorized issue of Notes of the District (the “Series 2023 Note”) issued pursuant to, and in anticipation of the issuance by the District of its Series B Bond (the “Series B Bond”), which will redeem this Note and ultimately evidence loans (the “B Loan”) from the Department of Natural Resources and Conservation of the State of Montana (the “DNRC”). This Series 2023 Note is authorized to be issued under Resolution No. _____, adopted by this Board on December 8, 2023 (the “Resolution”), to which Resolution, copies of which are on file with the District, reference is hereby made for a description of the nature and extent of the security for the Series 2023 Note, the conditions under which the Resolution may be amended and the rights of the Holders of the Series 2023 Note. Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution. The Series 2023 Note is issued by the District for the purpose of providing interim financing for the design, engineering, construction and installation of improvements to the sewer system for the benefit of certain properties in the District (the “System”), consisting of the 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 “2023 Project”).

This Series 2023 Note is issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Section 7-7-109, and Title 7, Chapter 13, Parts 22 and 23, as amended (the “Act”), and pursuant to the Resolution. This Series 2023 Note is payable from and secured by amounts pledged and appropriated and from time to time credited to the 2023 Note Account in the Sewer System Fund (the “2023 Note Account”), including the proceeds of the Series B Bond, which the District has covenanted to issue and sell prior to the maturity of this Note in an amount sufficient, with other funds on hand, to pay the principal hereof and interest hereon.

This Series 2023 Note is not a general obligation of the District and the District’s general credit and taxing powers are not pledged to the payment of this Series 2023 Note or interest thereon. This Series 2023 Note does not constitute an indebtedness of the District within the meaning of any constitutional or statutory provisions.

The District may redeem on any date, in whole but not in part, the unpaid principal of this Note at a price equal to the principal amount to be redeemed plus interest accrued to the date of redemption, without premium. Notice of any such prepayment will be mailed by the District not less than 15 days prior to the date specified for payment, to the registered holder of this Note at its address as it appears on the Note Register maintained by the District Secretary.

The District has designated this Note as a “qualified tax-exempt obligation” within the meaning of Section 265(b) of the Internal Revenue Code of 1986.

As provided in the Resolution and subject to certain limitations set forth therein, this Note is transferable upon the books of the District at the office of the District Secretary, by the registered owner hereof in person or by its attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the District Secretary, duly executed by the registered owner or its attorney. Upon such transfer, the District will cause a new Note to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing

interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer.

The District may deem and treat the person in whose name this Note is registered as the absolute owner hereof, whether this Note is overdue or not, for the purpose of receiving payment and for all other purposes, and the District shall not be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all acts, conditions and things required by the Constitution and laws of the State of Montana to be done, to exist, to happen and to be performed precedent to and in the issuance of this Note in order to make it a valid and binding special obligation of the District according to its terms, have been done, do exist, have happened and have been performed in regular and due time, form and manner as so required; that the District, in and by the Resolution, has validly made and entered into covenants and agreements with and for the benefit of the Holders from time to time of the Series 2023 Note including covenants that the District has received a written commitment for the B Loan from the DNRC in an amount equal to \$2,759,000 and has by resolution covenanted to satisfy the conditions of the commitment; that the District has appropriated to the 2023 Note Account the proceeds of the B Loan to the extent required to pay principal hereof or interest hereon; that by the Resolution, the District has covenanted, at or prior to the maturity of this Note, to sell and issue the Series B Bond, either to the DNRC or otherwise pursuant to the Act and the Resolution in a principal amount so as to provide funds sufficient, together with any money on deposit in the 2023 Note Account and available therefor, to pay in full the principal of and interest on this Note at maturity; that all provisions for the security of the Holder of this Series 2023 Note set forth in the Resolution will be punctually and faithfully performed as therein stipulated; and that the issuance of this Note does not cause the general or special indebtedness of the District to exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF, Fort Smith Water and Sewer District, Montana, by its Board of Directors, has caused this Bond to be executed by the signatures of the President of the Board of Directors and the Secretary, and has caused this Bond to be dated as of the 20th day of December, 2023.

President of the Board of Directors

District Secretary

PROVISIONS FOR REGISTRATION OF TRANSFER

The ownership of this Note and of the interest payable hereon may be transferred to a bona fide purchaser only by delivery with an assignment duly executed by the registered owner or his attorney or legal representative, and the District may treat the registered owner as the person exclusively entitled to receive payments of principal of and interest on this Note and to exercise all the rights and powers of an owner until this Note is presented to the District Secretary of Fort Smith Water and Sewer District, Montana, accompanied by said assignment and by assurance of the nature provided by law that the same is genuine and effective, and until such transfer is registered on the books of the District and noted hereon by the District Secretary.

REGISTER

The ownership of the unpaid Principal Balance of this Bond and the interest accruing thereon is registered on the books of the District of Fort Smith Water and Sewer District, Montana, in the name of the registered holder appearing on the first page hereof or as last noted below:

<u>Date of Registration</u>	<u>Name and Address of Registered Holder</u>	<u>District Secretary</u>
December 20, 2023	Department of Natural Resources and Conservation 1539 Eleventh Avenue Helena, MT 59620	

NO WRITING HEREON EXCEPT BY DISTRICT SECRETARY
AS NOTE REGISTRAR

The District Secretary has transferred on the books of Fort Smith Water and Sewer District, Montana, on the date last noted below, to the registered assign noted opposite said date, ownership of the principal amount of and interest on this Note, except the amounts of principal and interest theretofore paid:

<u>Date of Transfer</u>	<u>Registered Assign</u>	<u>Signature of District Secretary</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

APPENDIX C
COLLATERAL DOCUMENTS

[NONE]