

**City of Missoula  
Administration and Finance Committee Agenda**

**Date:** June 17, 2020, 3:10 PM - 3:25 PM

**Location:** Virtual Meeting: Live Stream and On Demand: <http://www.ci.missoula.mt.us/webcasts>  
Watch Live on Cable TV Channel 190  
YouTube Live Stream and On Demand:  
<https://www.youtube.com/channel/UC5fnfMPFGSk8Gwq6F5UoqGg>  
Live call in phone numbers: 1 (253) 215-8782 1 (888) 475-4499 (landlines only) Meeting ID:  
960 049 3694

**Members:** Stacie Anderson, Mirtha Becerra, John P. Contos, Heather Harp, Jordan Hess,  
Gwen Jones (chair), Julie Merritt, Jesse Ramos, Amber Sherrill, Sandra Vasecka,  
Bryan von Lossberg, Heidi West

If anyone attending this meeting needs special assistance, please provide 48 hours advance notice by calling the City Clerk Office at 406-552-6079.

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**Pages**

**1. ADMINISTRATIVE BUSINESS**

1.1 Roll Call

1.2 Approval of the Minutes

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**2. PUBLIC COMMENT**

**3. COMMITTEE BUSINESS**

3.1 Resolution Relating to Sewer System Revenue and Refunding Bonds, Series 2020A and Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor

Leigh Griffing

4

**Recommended motion:**

approve the "Resolution Relating to Sewer System Revenue and Refunding Bonds, Series 2020A and Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor"

**3.2 Resolution Amending and Restating Resolution Nos. 7578, 7579, 7613, 7735, 8006 and 8117 Relating to the City's Sewer System Revenue Bonds**

Leigh Griffing

55

**Recommended motion:**

approve the "Resolution Amending and Restating Resolution Nos. 7578, 7579, 7613, 7735, 8006 and 8117 Relating to the City's Sewer System Revenue Bonds"

**4. ADJOURNMENT**

**Missoula City Council Administration and Finance Committee Minutes**

**June 10, 2020**

**2:05 PM**

**Virtual Meeting: Live Stream and On Demand: <http://www.ci.missoula.mt.us/webcasts>**

**Watch Live on Cable TV Channel 190**

**YouTube Live Stream and On Demand:**

**<https://www.youtube.com/channel/UC5fnfMPFGSk8Gwq6F5UoqGg>**

**Live call in phone numbers: 1 (253) 215-8782 1 (888) 475-4499 (landlines only) Meeting ID: 960  
049 3694**

**Members present: Stacie Anderson, Mirtha Becerra, John P. Contos, Heather Harp, Jordan Hess, Gwen Jones (chair), Julie Merritt, Amber Sherrill, Sandra Vasecka, Bryan von Lossberg, Heidi West**

**Members absent: Jesse Ramos**

**Others present: Leigh Griffing, Finance Director; Jan Schweitzer, Andersen Zuhrmeulen; Montana James, Housing & Community Development; Mike Brady, Human Resources**

**1. ADMINISTRATIVE BUSINESS**

**1.1 Roll Call**

**1.2 Approval of the Minutes**

The minutes were approved as submitted.

**2. PUBLIC COMMENT**

No public comment.

**3. COMMITTEE BUSINESS**

**3.1 Truitt Consulting Contract for The Link Project (NIH Grant-funded)**

Montana James, City of Missoula Office of Housing & Community Development, presented the agenda item.

No public comment.

Vote was unanimous in favor.

Item will go on the consent agenda of the Monday, June 15, 202 city council meeting.

**Moved by:** Julie Merritt

approve and authorize the Mayor to sign this contract amendment with Truitt Consulting for the National Institutes of Health grant-funded project called The Link: A Collective-Impact, Place-Based Approach to Inspiring Montana's Next Generation Healthcare Work Force.

AYES: (11): Stacie Anderson, Mirtha Becerra, John Contos, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Amber Sherrill, Sandra Vasecka, Bryan von Lossberg, and Heidi West

ABSENT: (1): Jesse Ramos

**Vote results: Approved (11 to 0)**

### **3.2 Health Insurance Stop Loss agreement**

Mike Brady, Human Resources Risk Manager, presented the agenda item.

Due to technical difficulties, Chairwoman Jones recommended this agenda item be moved to the end and moved on to the Audit Presentation agenda item. 2:14 pm.

2:49 pm - Mr Brady presented the agenda item.

Sandra Vasecka made the motion.

Heidi West asked Mr. Brady about bringing the City's plan year into other open enrollment dates. Mr. Brady stated the City does plan to change its open enrollment dates to be a calendar year and it is about a year and half away from that.

No public comment.

Vote was unanimous in favor.

Item will go on the consent agenda of the Monday, June 15, 202 city council meeting.

**Moved by:** Sandra Vasecka

Approve and authorize the mayor to sign an agreement with ReliaStar Life Insurance Company in the amount of \$893,837.28.

AYES: (11): Stacie Anderson, Mirtha Becerra, John Contos, Heather Harp, Jordan Hess, Gwen Jones, Julie Merritt, Amber Sherrill, Sandra Vasecka, Bryan von Lossberg, and Heidi West

ABSENT: (1): Jesse Ramos

**Vote results: Approved (11 to 0)**

### **3.3 Audit Presentation Fiscal Year 2019**

Leigh Griffing, City of Missoula Finance Director, introduced the agenda item and Ms. Jan Schweitzer, with Anderson Zurmehlen (also referred to as "AZ"), the audit firm contracted by the City. Mrs. Griffing shared the PowerPoint presentation.

Bryan von Lossberg highlighted the debt margin and Ms. Schwietzer stated the City is well below the limit of amount of money it can borrow.

Chairwoman Jones clarified the debt for the water rates and general obligation debt.

Stacie Anderson stated she is comforted by the City's positive financial position and highlighted property tax districts. She asked Ms. Schweitzer about the graph and if it is is

the CAFR (Comprehensive Annual Financial Report - the "audit"). She provided additional comments and clarification about property taxes.

Sandra Vasecka asked for clarification for the debt cap from Mrs. Schweitzer.

No public comment.

None. Informational item.

**4. ADJOURNMENT**

Adjourned 2:57 pm



**City of Missoula, Montana**  
**Item to be Referred to City Council Committee**

**Committee:** Administration and Finance

**Item:** Resolution Relating to Sewer System Revenue and Refunding Bonds, Series 2020A and Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor

**Date:** June 11, 2020

**Sponsor(s):** Leigh Griffing

**Prepared by:** Leigh Griffing

**Ward(s) Affected:**

- Ward 1
- Ward 2
- Ward 3
- All Wards
- Ward 4
- Ward 5
- Ward 6
- N/A

**Action Required:**

Approve Resolution Relating to Sewer System Revenue and Refunding Bonds

**Recommended Motion(s):**

I move the City Council: approve the "Resolution Relating to Sewer System Revenue and Refunding Bonds, Series 2020A and Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor"

**Timeline:**

Referral to committee:	June 15, 2020
Committee discussion:	Wednesday, June 17, 2020
Council action (or sets hearing):	Monday, June 22, 2020
Public Hearing:	n/a
Deadline:	n/a

**Background and Alternatives Explored:**

On June 1, 2020 City Council approved a parameters resolution allowing for the sale of \$14,135,000 of sewer bonds on June 17. This supplemental resolution approves the final sale terms.

**Financial Implications:**

These bonds will refund the Taxable Sewer Utility Revenue Bonds, Series 2010 Recovery Zone Economic Development bonds, the Taxable Sewer System Revenue Bonds, Series 2011 and issue new bonds to reimburse wastewater capital projects approved by City Council in the FY 2019 and FY 2020 budgets and the Capital Improvement Program covering the periods FY2019 through FY 2024.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Missoula, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. [\_\_\_\_], entitled: "**Resolution Relating to \$[\_\_\_\_] Sewer System Revenue and Refunding Bonds, Series 2020A and \$[\_\_\_\_] Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor**" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on June 22, 2020, and that the meeting was duly held by the City Council 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 Council Members voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_; voted against the same: \_\_\_\_\_  
\_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_  
\_\_\_\_\_; or were absent: \_\_\_\_\_  
\_\_\_\_\_.

WITNESS my hand officially this 22nd day of June, 2020.

\_\_\_\_\_  
City Clerk

RESOLUTION NO. \_\_\_\_\_

**Resolution Relating to \$[\_\_\_\_\_] Sewer System Revenue and Refunding Bonds, Series 2020A and \$[\_\_\_\_\_] Taxable Sewer System Revenue Refunding Bonds, Series 2020B; Authorizing the Issuance and Prescribing the Forms and Terms Thereof and the Security Therefor**

BE IT RESOLVED by the City Council (the “Council”) of the City of Missoula, Montana (the “City”), as follows:

Section 1. Definitions, Authorizations and Findings.

1.01. Authorization. Under Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the “Act”), the City is authorized to sell and issue its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of a sewer system and to issue refunding bonds to refund bonds issued for such purposes; provided that the bonds and the interest thereon are to be payable solely out of the income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such sewer system, and are not to create any obligation of the City for the payment of which taxes may be levied except to pay for services provided by the sewer system to the City.

1.02. Prior City Actions. In accordance with the Act, and pursuant to a resolution adopted on June 22, 2020 amending and restating prior sewer revenue bond resolutions (the “Original Resolution”), the City has issued and there are outstanding the following revenue bonds of the System:

- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2000B;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2001A;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002A;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002B;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2003;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2004;
- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2005;



- First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009B;
- Taxable Sewer Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds—Direct Pay) (the “Series 2010 Bonds”);
- Taxable Sewer System Revenue Bonds, Series 2011 (the “Series 2011 Bonds”);
- Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015;
- Sewer System Revenue Bond, Series 2016A; and
- Sewer System Revenue Bond, Series 2016B.

The Bonds described above, excluding the Series 2010 Bonds and Series 2011 Bonds, are collectively referred to herein as the “Outstanding Bonds.” Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Resolution.

### 1.03. Authorization and Sale of Series 2020 Bonds.

(a) Pursuant to Resolution No. [\_\_\_\_], adopted by the Council on June 1, 2020 (the “Authorizing Resolution”), this Council authorized and provided for the sale and issuance of its Sewer System Revenue and Refunding Bonds, Series 2020A (the “Series 2020A Bonds”) and Taxable Sewer System Revenue Refunding Bonds, Series 2020B (the “Series 2020B Bonds”) and, together with the Series 2020A Bonds, the “Series 2020 Bonds”). Pursuant to such authorization, the City conducted a public sale duly noticed and held, pursuant to which bids were received on June 17, 2020 and thereafter the Mayor and City Finance Director were presented with tabulated bids.

(b) Based on such bids and in accordance with the parameters set forth in the Authorizing Resolution, on June 17, 2020, the Mayor and City Finance Director awarded the sale of the Series 2020A Bonds to [\_\_\_\_] (the “2020A Original Purchaser”), on its bid, which is attached hereto as Exhibit A-1, to purchase the Series 2020A Bonds at a price of \$[\_\_\_\_\_] (representing the principal amount of the Series 2020A Bonds (\$[\_\_\_\_\_] [plus/less] original issue [premium/discount] of \$[\_\_\_\_\_] and less underwriter’s discount of \$[\_\_\_\_\_] ). As further described in the Authorizing Resolution and herein, proceeds of the Series 2020A Bonds will be used to (i) pay or reimburse the City for costs of certain improvements to the System (the “Improvements”), (ii) refund the Series 2010 Bonds with stated maturities in 2021 and thereafter, (iii) fund a deposit to the Reserve Account and (iv) pay costs of issuance and of the refunding. The interest rates designated by the Original Purchaser in such bid and set forth in Section 2.01 result in a true interest cost of [\_\_\_\_\_]%. The net present value of debt service savings to be achieved by the refunding of the Series 2010 Bonds is [\_\_\_\_\_] % of the principal amount of the refunded Series 2010 Bonds, using the yield of the Series 2020A Bonds as the discount factor, calculated over the term of the refunded Series 2010 Bonds. It is hereby found, determined and declared that the interest rates and other terms of the Original Purchaser’s bid are in accordance

with the parameters set forth in the Authorizing Resolution and the award of the Series 2020A Bonds to the Original Purchaser is hereby ratified and confirmed.

(c) Based on such bids and in accordance with the parameters set forth in the Authorizing Resolution, on June 17, 2020, the Mayor and City Finance Director awarded the sale of the Series 2020B Bonds to [\_\_\_\_\_] (the “2020B Original Purchaser”), on its bid, which is attached hereto as Exhibit A-2, to purchase the Series 2020B Bonds at a price of \$[\_\_\_\_\_] (representing the principal amount of the Series 2020B Bonds (\$[\_\_\_\_\_] , [plus/less] original issue [premium/discount] of \$[\_\_\_\_\_] , and less underwriter’s discount of \$[\_\_\_\_\_] ). As further described in the Authorizing Resolution and herein, proceeds of the Series 2020B Bonds will be used to (i) refund the Series 2011 Bonds with stated maturities in 2021 and thereafter, (ii) fund a deposit to the Reserve Account and (iii) pay costs of issuance and of the refunding. The interest rates designated by the Original Purchaser in such bid and set forth in Section 2.01 result in a true interest cost of [\_\_\_\_\_]%. The net present value of debt service savings to be achieved by the refunding of the Series 2011 Bonds is [\_\_\_\_\_] % of the principal amount of the refunded Series 2011 Bonds, using the true interest cost of the Series 2020B Bonds as the discount factor, calculated over the term of the refunded Series 2011 Bonds. It is hereby found, determined and declared that the interest rates and other terms of the Original Purchaser’s bid are in accordance with the parameters set forth in the Authorizing Resolution and the award of the Series 2020B Bonds to the Original Purchaser is hereby ratified and confirmed.

1.04. Bond Insurance. In connection with the issuance of the Series [2020A/B] Bonds, the Original Purchaser has required the City to obtain bond insurance from [\_\_\_\_\_] (“[\_\_\_\_\_]”). In consideration for [\_\_\_\_\_]’s agreement to insure the Series [2020A/B] Bonds, the City hereby agrees to the provisions set forth in Exhibit [E] hereto, which are hereby incorporated herein.

The Mayor and City Finance Director are hereby authorized and directed to approve, execute and deliver to [\_\_\_\_\_] any documentation necessary for the issuance of the insurance policy for the Series [2020] Bonds.]

1.05. Additional Bonds. In Article V of the Original Resolution, the City reserved the right to issue Additional Bonds payable from and secured by Net Revenues of the System on a parity with the Outstanding Bonds on certain terms and conditions, including the requirement that Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such Additional Bonds equaled at least 125% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent Fiscal Year during the term of the Outstanding Bonds, on all Bonds then Outstanding and on the Additional Bonds proposed to be issued. The Net Revenues of the System for Fiscal Year ended June 30, 2019 were equal to \$2,652,821, which is more than 125% of the maximum amount of principal and interest payable on the Outstanding Bonds and Series 2020 Bonds in any Fiscal Year ( $\$[_____] \times 125\% = \$[_____]$ ). Therefore, it is determined that the City is authorized to issue the Series 2020 Bonds in the aggregate principal amount of  $\$[_____]$  on a parity with the Outstanding Bonds.

1.06. Recitals. All acts, conditions and things required by the Constitution and laws of the State to be done, to exist, to happen and to be performed prior to the issuance of the Series 2020 Bonds have been done, do exist, have happened, and have been performed in due time,

form and manner, wherefore it is now necessary for this Council to establish the form and terms of the Series 2020 Bonds, to provide for the security thereof and to issue the Series 2020 Bonds forthwith.

Section 2. Bond Terms, Execution and Delivery.

2.01. Term of Series 2020 Bonds.

(a) Series 2020A Bonds. The Series 2020A Bonds shall be designated “Sewer System Revenue and Refunding Bonds, Series 2020A.” The Series 2020A Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities. The Series 2020A Bonds shall mature on July 1 in the years and amounts listed below, and the Series 2020A Bonds maturing in such years and amounts shall bear interest from date of original issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2023			2030		
2024			2031		
2025			2032		
2026			2033		
2027			2034		
2028			2035		
2029					

[\*Term Bonds subject to mandatory sinking fund redemption as set forth in Section 2.07(a) below.]

Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

(b) Series 2020B Bonds. The Series 2020B Bonds shall be designated “Taxable Sewer System Revenue Refunding Bonds, Series 2020B.” The Series 2020B Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities. The Series 2020B Bonds shall mature on July 1 in the years and amounts listed below, and the Series 2020B Bonds maturing in such years and amounts shall bear interest from date of original issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

<u>Year</u>	<u>Principal Amount</u>
2023	\$100,000
2024	200,000
2025	200,000

2026	200,000
2027	210,000

[\*Term Bond subject to mandatory sinking fund redemption as set forth in Section 2.07(b) below.]

Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

2.02. Registered Form, Interest Payment Dates. The Series 2020 Bonds shall be issuable only in fully registered form, and the ownership of the Series 2020 Bonds shall be transferred only upon the Bond Register of the City hereinafter described. The interest on the Series 2020 Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2021. Interest on the Series 2020 Bonds shall be payable to the Owners thereof as of the close of business on the 15th day of the month immediately preceding each Interest Payment Date, whether or not such day is a Business Day. Interest on, and upon presentation and surrender thereof, the principal of each Series 2020 Bond shall be payable by check or draft issued by the Registrar described herein.

2.03. Dated Date. Each Series 2020 Bond shall be originally dated as of June 30, 2020, and upon authentication of any Series 2020 Bond the Registrar shall indicate thereon the date of such authentication.

2.04. Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its principal office a Bond Register in which the Registrar shall provide for the registration of ownership of Series 2020 Bonds and the registration of transfers and exchanges of Series 2020 Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Series 2020 Bonds. Upon surrender to the Registrar for transfer of any Series 2020 Bond duly endorsed by the Owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Owner thereof or by an attorney duly authorized by the Owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2020 Bonds of the same series of a like aggregate principal amount and maturity, as the case may be, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Series 2020 Bond or portion thereof selected or called for redemption.

(c) Exchange of Bonds. Whenever any Series 2020 Bond is surrendered by the Owner for exchange, the Registrar shall authenticate and deliver one or more new Series 2020 Bonds of the same series of a like aggregate principal amount, interest rate and maturity, as requested by the Owner or the Owner’s attorney in writing.

(d) Cancellation. All Series 2020 Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Series 2020 Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Series 2020 Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name any Series 2020 Bond is at any time registered in the Bond Register as the absolute owner of such Series 2020 Bond, whether such Series 2020 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Series 2020 Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the City upon such Series 2020 Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Series 2020 Bonds (except for an exchange upon the partial redemption of a Series 2020 Bond), the Registrar may impose a charge upon the Owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Series 2020 Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Series 2020 Bond of the same series of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Series 2020 Bond or in lieu of and in substitution for any such Series 2020 Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Series 2020 Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Series 2020 Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Series 2020 Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Series 2020 Bond has already matured or such Series 2020 Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2020 Bond prior to payment.

2.05. Appointment of Initial Registrar. The City hereby appoints U.S. Bank National Association, in Salt Lake City, Utah, to act as bond registrar, transfer agent and paying agent (the "Registrar"). The City reserves the right to appoint a successor bond registrar, transfer agent or paying agent, as authorized by the Model Public Obligations Registration Act of Montana, Montana Code Annotated, Title 17, Chapter 5, Part 11, as amended (the "Registration Act"), but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed.

2.06. Optional Redemption.

(a) Series 2020A Bonds. The Series 2020A Bonds with Stated Maturities on or after July 1, 2031 are subject to redemption on January 1, 2030 and any date thereafter, at the option of the City, in whole or in part, and if in part from such Stated Maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner as directed by the City), at a Redemption Price equal to the principal amount thereof and interest accrued to the Redemption Date, without premium.

(b) Series 2020B Bonds. The Series 2020B Bonds are not subject to redemption prior to their Stated Maturities.

(c) Notice of Redemption. The Redemption Date and the principal amount of the Series 2020A Bonds to be redeemed shall be fixed by the City Finance Director who shall give notice thereof to the Registrar at least 35 days prior to the Redemption Date or such lesser period as the Registrar accepts. The Registrar, at least 30 days prior to the designated Redemption Date, shall cause notice of redemption to be mailed, by first class mail, or by other means required by the securities depository, to the Owners of each Series 2020A Bond to be redeemed at their addresses as they appear on the Bond Register, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of any Series 2020A Bond not affected by such defect or failure. The notice of redemption shall specify the Redemption Date, Redemption Price, the numbers, interest rates and CUSIP numbers of the Series 2020A Bonds to be redeemed and the place at which the Series 2020A Bonds are to be surrendered for payment, which is the principal office of the Registrar. Official notice of redemption having been given as aforesaid, the Series 2020A Bonds or portions thereof so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the City shall default in the payment of the Redemption Price) such Series 2020A Bonds or portions thereof shall cease to bear interest.

2.07. [Mandatory Sinking Fund Redemption.

(a) The Series 2020A Bonds having Stated Maturities in 20\_\_ and 20\_\_ are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner as directed by the City, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund <u>Payment Date</u>
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If the Series 2020A Bonds having Stated Maturities in 20\_\_ and 20\_\_ are not previously purchased by the City in the open market or prepaid, \$\_\_\_\_\_ and \$\_\_\_\_\_.

respectively,, in principal amount of such Series 2020A Bonds would remain to mature in 20\_\_ and 20\_\_. The principal amount of the Series 2020A Bonds required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Series 2020A Bonds theretofore redeemed at the option of this Council and as to which the City has not previously applied amounts to reduce the principal amount of such Series 2020A Bonds on a Sinking Fund Payment Date.

(b) The Series 2020B Bonds having Stated Maturities in 20\_\_ and 20\_\_ are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner as directed by the City, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund <u>Payment Date</u>
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If the Series 2020B Bonds having Stated Maturities in 20\_\_ and 20\_\_ are not previously purchased by the City in the open market or prepaid, \$\_\_\_\_\_ and \$\_\_\_\_\_, respectively, in principal amount of such Series 2020B Bonds would remain to mature in 20\_\_ and 20\_\_. The principal amount of the Series 2020B Bonds required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Series 2020B Bonds theretofore redeemed at the option of this Council and as to which the City has not previously applied amounts to reduce the principal amount of such Series 2020B Bonds on a Sinking Fund Payment Date.]

2.08. Execution and Delivery. The Series 2020 Bonds shall be forthwith prepared for execution under the direction of the City Clerk and shall be executed on behalf of the City by the signatures of the Mayor and the City Clerk, provided that said signatures may be printed, engraved or lithographed facsimiles thereof. The seal of the City need not be imprinted on or affixed to any Series 2020 Bond. In case any officer whose signature or a facsimile of whose signature shall appear on the Series 2020 Bonds shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Series 2020 Bonds have been so executed by said City officers, they shall be registered by the City Clerk in accordance with Montana Code Annotated, Section 7-7-4257, as amended. Notwithstanding such execution, no Series 2020 Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Series 2020 Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Series 2020 Bonds need not be signed by the same representative. The executed certificate of authentication on each Series 2020 Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Series 2020 Bonds have been fully executed and authenticated, they shall be delivered

by the Registrar to the Original Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

2.09. Securities Depository for the Series 2020 Bonds.

(a) For purposes of this Section [2.09], the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2020 Bond, the person in whose name such Series 2020 Bond is recorded as the beneficial owner of such Series 2020 Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2020 Bonds.

“DTC” shall mean The Depository Trust Company of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2020 Bonds as securities depository.

“Representation Letter” shall mean the Blanket Issuer Letter of Representations pursuant to which the City agrees to comply with DTC’s Operational Arrangements.

(b) The Series 2020 Bonds of each series shall be initially issued as separately authenticated fully registered Series 2020 Bonds, and one Series 2020 Bond shall be issued in the principal amount of each stated maturity of each series of the Series 2020 Bonds. Upon initial issuance, the ownership of such Series 2020 Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive Owner of the Series 2020 Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2020 Bonds, selecting the Series 2020 Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to Owners of Series 2020 Bonds under this Resolution, registering the transfer of Series 2020 Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Series 2020 Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond Register as being an Owner, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2020 Bonds, with respect to any notice which is permitted or required to be given to Owners under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2020 Bonds, or with respect to any consent given or other action taken by DTC as Owner of the Series 2020 Bonds. So long as any Series 2020 Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar



shall pay all principal of and interest on such Series 2020 Bond, and shall give all notices with respect to such Series 2020 Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City's obligations with respect to the principal of and interest on the Series 2020 Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Series 2020 Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2020 Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines to discontinue the book-entry-only system for one or both series of Series 2020 Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2020 Bonds of such series in the form of certificates. In such event, the Series 2020 Bonds of such series will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2020 Bonds of one or both series at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2020 Bonds of such series will be transferable in accordance with paragraph (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by Owners and Beneficial Owners and payments on the Series 2020 Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

(e) In the event that any transfer or exchange of Series 2020 Bonds of a series is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2020 Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Resolution. In the event Series 2020 Bonds in the form of certificates are issued to Owners other than Cede & Co., its successor as nominee for DTC as Owner of all the Series 2020 Bonds, or another securities depository as Owner of all the Series 2020 Bonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the preparation of such Series 2020 Bonds in the form of Series 2020 Bond certificates and the method of payment of principal of and interest on such Series 2020 Bonds in the form of Series 2020 Bond certificates.

2.10. Form of Series 2020 Bonds. The Series 2020A Bonds shall be prepared in substantially the form set forth in Exhibit B-1 hereto and the Series 2020B Bonds shall be prepared in substantially the form set forth in Exhibit B-2 hereto, and by this reference are made a part hereof.

### Section 3. Use of Proceeds; Refunding and Redemption.

#### 3.01. Use of Proceeds.

(a) Simultaneously with the delivery of the Series 2020 Bonds, the City Finance Director shall deposit or cause to be deposited in escrow with U.S. Bank National Association, of Salt Lake City, Utah (the “Escrow Agent”) the following amounts: (i) to be applied to the refunding of the Series 2010 Bonds, a total amount of \$[\_\_\_\_], comprised of \$[\_\_\_\_] of the proceeds of the Series 2020A Bonds and \$707,788 on hand in the Reserve Account for the Series 2010 Bonds, and (ii) to be applied to the refunding of the Series 2011 Bonds, a total amount of \$[\_\_\_\_], comprised of \$[\_\_\_\_] of the proceeds of the Series 2020B Bonds and \$116,050 on hand on the Reserve Account for the Series 2011 Bonds, all as set forth in the Escrow Agreement attached as Exhibit C hereto.

(b) The Mayor and the City Finance Director (or in the absence or inability of either of them, another member of this Council or officer of the City designated by either of the Mayor or City Finance Director) are hereby authorized to enter into an Escrow Agreement with the Escrow Agent, in the form which has been presented to this Council and attached hereto as Exhibit C, with such additions thereto or deletions therefrom as are necessary or appropriate. On or prior to the date of delivery of the Series 2020 Bonds, the City Finance Director will deposit the July 1, 2020 debt service payment for the Series 2010 Bonds and the Series 2011 Bonds with the paying agents for such bonds. Pursuant to Article X of the Original Resolution, following deposit of the July 1, 2020 debt service payments and upon the establishment and funding of the Escrow Account pursuant to this Section 3.01, the Series 2010 Bonds and Series 2011 Bonds shall be defeased and shall no longer be considered outstanding.

(c) The City Finance Director shall apply the remaining proceeds of the Series 2020A Bonds as follows:

(i) \$[\_\_\_\_] shall be credited to the Acquisition and Construction Account and used to pay or reimburse the City for costs of the Improvements (\$[\_\_\_\_]) and to pay costs of issuance of the Series 2020A Bonds and costs of the refunding (\$[\_\_\_\_]), and

(ii) \$[\_\_\_\_] shall be credited to the Reserve Account to satisfy the Reserve Requirement with respect to the Series 2020A Bonds.

(d) The City Finance Director shall apply the remaining proceeds of the Series 2020B Bonds as follows:

(i) \$[\_\_\_\_] shall be credited to the Acquisition and Construction Account and used to pay costs of issuance of the Series 2020B Bonds and costs of the refunding, and

(ii) \$[\_\_\_\_] shall be credited to the Reserve Account to satisfy the Reserve Requirement with respect to the Series 2020B Bonds.

3.02. Redemption of Series 2010 Bonds and Series 2011 Bonds. The Series 2010 Bonds with stated maturities in 2021 and thereafter are hereby called for redemption on August 15, 2020. The Series 2011 Bonds with stated maturities in 2022 and thereafter are hereby called for redemption on July 1, 2021.

Section 4. Security for the Series 2020 Bonds. The Series 2020 Bonds are issued under and pursuant to Sections 5.1, 5.2 and 5.3 of the Original Resolution and shall, with the Outstanding Bonds and any Additional Bonds hereafter issued, be secured, equally and ratably, by a first lien upon the Net Revenues of the System (the Gross Revenues being subject to the prior appropriation thereof to the Operating Account for the payment of Operating Expenses) and secured by the Reserve Account, without preference or priority of any one Bond over any other by reason of serial number, date of issue, series designation or otherwise, all as provided in the Original Resolution. Upon the transfers of funds to the Reserve Account as described in Section 3.01(c)(ii) and (d)(ii), amounts in the Reserve Account shall equal the Reserve Requirement with respect to the Outstanding Bonds and the Series 2020 Bonds. The City shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Original Resolution, as amended and supplemented by this resolution.

Section 5. Consent to Future Amendment of Reserve Requirement. Upon receipt of the consents of the Holders of the Outstanding Bonds as required under Article VIII of the Original Resolution and Section 2.4 of Appendix B to the Original Resolution, the definition of “Reserve Requirement” contained in Section 1.1 of the Original Resolution shall be amended to read as follows:

“‘Reserve Requirement’ means, as of the date of calculation, an amount equal to one-half the maximum amount of principal and interest payable on the Bonds in the current or any future Fiscal Year (giving effect to any Sinking Fund Payment Dates with respect to any series of Bonds).”

By acceptance of the Series 2020 Bonds, Holders of the Series 2020 Bonds are deemed to consent to such amendment.

Section 6. Continuing Disclosure. The Council hereby approves the Continuing Disclosure Undertaking of the City substantially in the form of the attached Exhibit C and authorizes the Mayor and the City Clerk, or in the absence of either of them or in the event of their inability to sign, their designees, to execute and deliver the Continuing Disclosure Undertaking on behalf of the City contemporaneously with the date of issuance and delivery of the Series 2020 Bonds, with such changes as may be necessary or appropriate. The signatures of any two authorized officers of the City are adequate to cause the Continuing Disclosure Undertaking to be binding and enforceable on the City.

Section 7. Tax Covenants and Certifications.

7.01. Use of Improvements and Prior Improvements. The Series 2010 Bonds financed certain improvements to the System (collectively, the “Prior Improvements”). The Improvements and the Prior Improvements have been and will continue to be owned and operated by the City and available for use by members of the general public on a substantially equal basis. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Improvements or Prior Improvements or security for the payment of the Series 2020A Bonds which might cause the Series 2020A Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Code.

7.02. General Covenant. The City covenants and agrees with the Holders from time to time of the Series 2020A Bonds 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 2020A Bonds 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 2020A Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

7.03. Arbitrage Certification. The Mayor and the City Finance Director, being the officers of the City charged with the responsibility for issuing the Series 2020A Bonds pursuant to the Original Resolution and this Supplemental Resolution, are authorized and directed to execute and deliver to the Original Purchaser, certificates 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 2020A Bonds, it is reasonably expected that the proceeds of the Series 2020A Bonds will not be used in a manner that would cause the Series 2020A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

7.04. Arbitrage Rebate. The City acknowledges that the Series 2020A Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Series 2020A Bonds from gross income for federal income tax purposes, unless the Series 2020A Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Series 2020A Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Finance Director and the Mayor are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

7.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than August 15, 2020, a statement concerning the Series 2020A Bonds containing the information required by Section 149(e) of the Code.

#### Section 8. Certification of Proceedings.

The officers of the City are hereby authorized and directed to prepare and furnish to the Original Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Series 2020 Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

Section 9. Repeals and Effective Date.

9.01. Repeal. All provisions of other resolutions and other actions and proceedings of the City and this Council that are in any way inconsistent with the terms and provisions of this Supplemental Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Supplemental Resolution.

9.02. Effective Date. This Supplemental Resolution shall take effect immediately upon its passage and adoption by this Council.

PASSED AND ADOPTED by the City Council of the City of Missoula, Montana, this  
22nd day of June, 2020.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

EXHIBIT A-1

[2020A Bid Form]

EXHIBIT A-2

[2020B Bid Form]



EXHIBIT B-1

[FORM OF SERIES 2020A BOND]

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF MISSOULA

**CITY OF MISSOULA**

SEWER SYSTEM REVENUE AND REFUNDING BOND  
SERIES 2020A

No. R-\_\_\_\_\_ \$\_\_\_\_\_

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 1,	June 30, 2020	[_____]

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS AND NO/100

FOR VALUE RECEIVED, CITY OF MISSOULA, MONTANA (the "City"), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the registered owner named above, or registered assigns, solely from the Revenue Bond Account of its Sewer System Fund, the principal amount specified above on the maturity date specified above or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, with interest thereon from the date of original issue set forth above or from such later date to which interest has been paid or duly provided for at the rate specified above. Principal of this Bond is payable upon presentation and surrender hereof to U.S. Bank National Association, of Salt Lake City, Utah, as registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (the "Registrar"), at its operations center in St. Paul, Minnesota. The interest on this Bond shall be payable on January 1 and July 1 in each year, commencing January 1, 2021. Interest on the Series 2020A Bonds shall be payable to the owners of record thereof as such appear on the Bond Register as of the close of business on the 15th day of the month immediately preceding each interest payment date, whether or not such day is a Business Day. Interest on, and upon presentation and surrender thereof, the principal of this Bond shall be payable by check or draft issued by or drawn on the Registrar or, as appropriate, by wire transfer. The principal of and interest on this Bond are payable in lawful money of the United States of America. Interest shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other

nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of a series of Sewer System Revenue and Refunding Bonds of the City authorized to be issued in the aggregate principal amount of \$[\_\_\_\_\_] (the “Series 2020A Bonds”). The Series 2020A Bonds are issued to (i) pay or reimburse the City for costs of certain improvements to the municipal sewer system of the City; (ii) refund the City’s Taxable Sewer System Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds—Direct Pay); (iii) fund a deposit to the Reserve Account; and (iv) pay costs of issuance of the Series 2020A Bonds and of the refunding. The Series 2020A Bonds are issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended, and Resolution No. \_\_\_\_ (the “Original Resolution”), adopted by the City Council on June 22, 2020, as amended and supplemented by Resolution No. \_\_\_\_, adopted June 22, 2020 (as so amended and supplemented, the “Resolution”), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Holders of the Series 2020A Bonds and the City and the terms upon which the Series 2020A Bonds are to be issued and delivered. Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution. The Series 2020A Bonds are issuable as a series, all of like date of original issue and tenor except as to serial number, denomination, date, interest rate, maturity date and redemption privilege. The Series 2020A Bonds are issued on a parity and are equally and ratably secured by Net Revenues of the System with the City’s outstanding First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2000B; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2001A; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002A; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002B; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2003; Second Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2004; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2005; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009B; Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Sewer System Revenue Bond, Series 2016A, Sewer System Revenue Bond, Series 2016B and Taxable Sewer System Revenue Refunding Bonds, Series 2020B (which are issued simultaneously herewith) (all such Bonds, collectively, the “Outstanding Bonds”).

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2020A Bonds have been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which Additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Outstanding Bonds and the Series 2020A Bonds or otherwise, the conditions

upon which the Resolution may be amended, the rights, duties and obligations of the City, and the rights of the owners of the Series 2020A Bonds.

The Series 2020A Bonds with stated maturities in the years 2021 through 2030 are not subject to redemption prior to their stated maturities. The Series 2020A Bonds with stated maturities on or after July 1, 2031 are subject to redemption on July 1, 2030 and any date thereafter, at the option of the City, in whole or in part, and if in part from such stated maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner as directed by the City), at a redemption price equal to the principal amount thereof and interest accrued to the Redemption Date, without premium.

[The Series 2020A Bonds having a stated maturity in 20\_\_ (the “Term Bonds”) are subject to mandatory sinking fund redemption on July 1, 20\_\_, in the principal amount set forth below, in \$5,000 principal amounts selected by the Registrar, by lot or other manner as directed by the City, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the mandatory sinking fund redemption date:

	20__	Term Bond
		<hr/>
		Sinking Fund
July 1		<hr/>
		Payment Amount

If the Term Bonds having a stated maturity in 20\_\_ are not previously purchased by the City in the open market or prepaid, \$\_\_\_\_\_ in principal amount of such Term Bonds would remain to mature in 20\_\_. The principal amount of such Term Bonds required to be redeemed on the above sinking fund payment dates shall be reduced by the principal amount of such Term Bonds theretofore redeemed at the option of the City and as to which the City has not previously applied amounts to reduce the principal amount of such Term Bonds on a sinking fund payment date.]

As provided in the Resolution and subject to certain limitations set forth therein, this Series 2020A Bond is transferable upon the books of the City at the principal office of the Registrar, 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 Registrar duly executed by the registered owner or its attorney; and may also be surrendered in exchange for Series 2020A Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2020A Bond or Bonds 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 or exchange.

The Series 2020A Bonds, including interest and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision.

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

[Bond insurance provisions]

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City has duly authorized the refunding and redemption of the Refunded Bonds hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Sewer System Fund into which the Gross Revenues of the System will be paid, and a separate and special Revenue Bond Account in the Sewer System Fund, into which will be paid semiannually, from and as a first and prior lien on the Net Revenues of the System then on hand, an amount equal to not less than all of the interest to become due in the next six months and one-half of the principal to become due within the next twelve months with respect to all Bonds payable semiannually from the Revenue Bond Account; that the City has created a Reserve Account in the Sewer System Fund into which shall be paid additional Net Revenues, after required credits to the Revenue Bond Account, sufficient to maintain a reserve therein equal to the Reserve Requirement; that the Revenue Bond Account will be used only to pay the principal of, premium, if any, and interest on the Outstanding Bonds, the Series 2020A Bonds and any other Additional Bonds issued pursuant to the Resolution on a parity therewith; that the rates and charges for the System will from time to time be made and kept sufficient, to provide Gross Revenues adequate to pay promptly the Operating Expenses of the System and to produce during each Fiscal Year Net Revenues not less than 125% of the maximum annual principal and interest payable on the outstanding Bonds in the current or any future Fiscal Year; that Additional Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Outstanding Bonds and the Series 2020A Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Outstanding Bonds and Series 2020A Bonds on such Net Revenues; that all provisions for the security of the holder of this Series 2020A Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Series 2020A Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this Series 2020A Bond and the interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond Account and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2020A Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Missoula, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor and City Clerk, and has caused the official seal of the City to be affixed hereto, and has caused this Bond to be dated as of the 30th day of June, 2020.

CITY OF MISSOULA, MONTANA

(Facsimile Signature)  
MAYOR

(Facsimile Seal)

(Facsimile Signature)  
CITY CLERK

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned herein.

U.S. BANK NATIONAL ASSOCIATION,  
as Registrar, Transfer Agent, and  
Paying Agent

By \_\_\_\_\_  
Authorized Signature

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants  
in common

UTMA.....Custodian.....  
(Cust) (Minor)

TEN ENT -- as tenants  
by the entireties

under Uniform Gifts to

JT TEN -- as joint tenants  
with right of  
survivorship and  
not as tenants in  
common

Minor Act.....  
(State)

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_  
\_\_\_\_\_ the within Bond and all rights thereunder, and hereby  
irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within  
Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY  
OR OTHER IDENTIFYING NUMBER  
OF ASSIGNEE:

\_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature to this assignment  
must correspond with the name as it appears  
upon the face of the within Bond in every  
particular, without alteration, enlargement  
or any change whatsoever.

SIGNATURE GUARANTEED

Signature(s) must be guaranteed by an  
"eligible guarantor institution" meeting  
the requirements of the Registrar,  
which requirements include membership  
or participation in STAMP or such other  
"signature guaranty program" as may be  
determined by the Registrar in  
addition to or in substitution for STAMP,  
all in accordance with the Securities  
Exchange Act of 1934, as amended.

EXHIBIT B-2

[FORM OF SERIES 2020B BOND]

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF MISSOULA

**CITY OF MISSOULA**

TAXABLE SEWER SYSTEM REVENUE REFUNDING BOND  
SERIES 2020B

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 1,	June 30, 2020	[_____]

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS AND NO/100

FOR VALUE RECEIVED, CITY OF MISSOULA, MONTANA (the "City"), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the registered owner named above, or registered assigns, solely from the Revenue Bond Account of its Sewer System Fund, the principal amount specified above on the maturity date specified above or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, with interest thereon from the date of original issue set forth above or from such later date to which interest has been paid or duly provided for at the rate specified above. Principal of this Bond is payable upon presentation and surrender hereof to U.S. Bank National Association, of Salt Lake City, Utah, as registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (the "Registrar"), at its operations center in St. Paul, Minnesota. The interest on this Bond shall be payable on January 1 and July 1 in each year, commencing January 1, 2021. Interest on the Series 2020B Bonds shall be payable to the owners of record thereof as such appear on the Bond Register as of the close of business on the 15th day of the month immediately preceding each interest payment date, whether or not such day is a Business Day. Interest on, and upon presentation and surrender thereof, the principal of this Bond shall be payable by check or draft issued by or drawn on the Registrar or, as appropriate, by wire transfer. The principal of and interest on this Bond are payable in lawful money of the United States of America. Interest shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay

all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of a series of Taxable Sewer System Revenue Refunding Bonds of the City authorized to be issued in the aggregate principal amount of \$[\_\_\_\_\_] (the “Series 2020B Bonds”). The Series 2020B Bonds are issued to (i) refund the City’s Taxable Sewer System Revenue Bonds, Series 2011; (ii) fund a deposit to the Reserve Account; and (iii) pay costs of issuance of the Series 2020B Bonds and of the refunding. The Series 2020B Bonds are issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended, and Resolution No. \_\_\_\_ (the “Original Resolution”), adopted by the City Council on June 22, 2020, as amended and supplemented by Resolution No. \_\_\_\_, adopted June 22, 2020 (as so amended and supplemented, the “Resolution”), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Holders of the Series 2020B Bonds and the City and the terms upon which the Series 2020B Bonds are to be issued and delivered. Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution. The Series 2020B Bonds are issuable as a series, all of like date of original issue and tenor except as to serial number, denomination, date, interest rate and maturity date. The Series 2020B Bonds are issued on a parity and are equally and ratably secured by Net Revenues of the System with the City’s outstanding First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2000B; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2001A; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002A; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2002B; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2003; Second Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2004; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2005; First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009B; Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015; Sewer System Revenue Bond, Series 2016A, Sewer System Revenue Bond, Series 2016B and Sewer System Revenue and Refunding Bonds, Series 2020A (which are issued simultaneously herewith) (all such Bonds, collectively, the “Outstanding Bonds”).

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2020B Bonds have been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which Additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Outstanding Bonds and the Series 2020B Bonds or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the City, and the rights of the owners of the Series 2020B Bonds.



The Series 2020B Bonds are not subject to optional redemption prior to their stated maturities.

[The Series 2020B Bonds having a stated maturity in 20\_\_ (the “Term Bonds”) are subject to mandatory sinking fund redemption on July 1, 20\_\_, in the principal amount set forth below, in \$5,000 principal amounts selected by the Registrar, by lot or other manner as directed by the City, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the mandatory sinking fund redemption date:

<u>20__ Term Bond</u>	
Sinking Fund	
July 1	Payment Amount

If the Term Bonds having a stated maturity in 20\_\_ are not previously purchased by the City in the open market or prepaid, \$\_\_\_\_\_ in principal amount of such Term Bonds would remain to mature in 20\_\_. The principal amount of such Term Bonds required to be redeemed on the above sinking fund payment dates shall be reduced by the principal amount of such Term Bonds theretofore redeemed at the option of the City and as to which the City has not previously applied amounts to reduce the principal amount of such Term Bonds on a sinking fund payment date.]

As provided in the Resolution and subject to certain limitations set forth therein, this Series 2020B Bond is transferable upon the books of the City at the principal office of the Registrar, 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 Registrar duly executed by the registered owner or its attorney; and may also be surrendered in exchange for Series 2020B Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2020B Bond or Bonds 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 or exchange.

The Series 2020B Bonds, including interest and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision.

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

[Bond insurance provisions]

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City has duly authorized the refunding and redemption of the Refunded Bonds hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Sewer System Fund into which the Gross Revenues of the System will be

paid, and a separate and special Revenue Bond Account in the Sewer System Fund, into which will be paid semiannually, from and as a first and prior lien on the Net Revenues of the System then on hand, an amount equal to not less than all of the interest to become due in the next six months and one-half of the principal to become due within the next twelve months with respect to all Bonds payable semiannually from the Revenue Bond Account; that the City has created a Reserve Account in the Sewer System Fund into which shall be paid additional Net Revenues, after required credits to the Revenue Bond Account, sufficient to maintain a reserve therein equal to the Reserve Requirement; that the Revenue Bond Account will be used only to pay the principal of, premium, if any, and interest on the Outstanding Bonds, the Series 2020B Bonds and any other Additional Bonds issued pursuant to the Resolution on a parity therewith; that the rates and charges for the System will from time to time be made and kept sufficient, to provide Gross Revenues adequate to pay promptly the Operating Expenses of the System and to produce during each Fiscal Year Net Revenues not less than 125% of the maximum annual principal and interest payable on the outstanding Bonds in the current or any future Fiscal Year; that Additional Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Outstanding Bonds and the Series 2020B Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Outstanding Bonds and Series 2020B Bonds on such Net Revenues; that all provisions for the security of the holder of this Series 2020B Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Series 2020B Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this Series 2020B Bond and the interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond Account and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2020B Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Missoula, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor and City Clerk, and has caused the official seal of the City to be affixed hereto, and has caused this Bond to be dated as of the 30th day of June, 2020.

CITY OF MISSOULA, MONTANA

(Facsimile Signature)  
MAYOR

(Facsimile Seal)

(Facsimile Signature)  
CITY CLERK

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned herein.

U.S. BANK NATIONAL ASSOCIATION,  
as Registrar, Transfer Agent, and  
Paying Agent

By \_\_\_\_\_  
Authorized Signature

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants  
in common

UTMA.....Custodian.....  
(Cust) (Minor)

TEN ENT -- as tenants  
by the entireties

under Uniform Gifts to

JT TEN -- as joint tenants  
with right of  
survivorship and  
not as tenants in  
common

Minor Act.....  
(State)

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_  
\_\_\_\_\_ the within Bond and all rights thereunder, and hereby  
irrevocably constitutes and appoints \_\_\_\_\_ attorney to transfer the within  
Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY  
OR OTHER IDENTIFYING NUMBER  
OF ASSIGNEE:

\_\_\_\_\_  
\_\_\_\_\_

NOTICE: The signature to this assignment  
must correspond with the name as it appears  
upon the face of the within Bond in every  
particular, without alteration, enlargement  
or any change whatsoever.

SIGNATURE GUARANTEED

Signature(s) must be guaranteed by an  
"eligible guarantor institution" meeting  
the requirements of the Registrar,  
which requirements include membership  
or participation in STAMP or such other  
"signature guaranty program" as may be  
determined by the Registrar in  
addition to or in substitution for STAMP,  
all in accordance with the Securities  
Exchange Act of 1934, as amended.

## EXHIBIT C

### Form of Escrow Agreement

THIS ESCROW AGREEMENT (this “Agreement”) is made and executed between the City of Missoula, Montana (the “City”), and U.S. Bank National Association, in Salt Lake City, Utah (the “Agent”). The parties hereto recite and, in consideration of the mutual covenants and payments referred to and contained herein, covenant and agree as follows:

1. The City, in accordance with resolutions of its City Council adopted June 22, 2020, sold its Sewer System Revenue and Refunding Bonds, Series 2020A, dated, as originally issued, as of June 30, 2020 (the “Series 2020A Bonds”), in the aggregate principal amount of \$[\_\_\_\_\_]. The Series 2020A Bonds were issued, in part, for the purpose of refunding and redeeming the City’s Taxable Sewer System Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds—Direct Pay) (the “Series 2010 Bonds”) with stated maturities in 2021 and thereafter, outstanding as of the date hereof in the aggregate principal amount of \$9,085,000 (the “Series 2010 Refunded Bonds”).

2. The City, in accordance with resolutions of its City Council adopted June 22, 2020, also sold its Sewer System Revenue Refunding Bonds, Series 2020B, dated, as originally issued, as of June 30, 2020 (the “Series 2020B Bonds”), in the aggregate principal amount of \$[\_\_\_\_\_]. The Series 2020B Bonds were issued for the purpose of refunding, paying and redeeming the City’s Taxable Sewer System Revenue Bonds, Series 2011 (the “Series 2011 Bonds”), with stated maturities in 2021 and thereafter, outstanding as of the date hereof in the aggregate principal amount of \$900,000 (the “Series 2011 Refunded Bonds” and, together with the Series 2010 Refunded Bonds, the “Refunded Bonds”).

3. The City has directed that proceeds of the Series 2020A Bonds in the amount of \$[\_\_\_\_\_], together with \$707,788 of amounts in the debt service reserve account for the Series 2010 Bonds, be deposited in the 2010 Refunding Subaccount in the the Escrow Account (each, as hereinafter defined) and applied to the refunding of the Series 2010 Refunded Bonds, and that proceeds of the Series 2020B Bonds in the amount of \$[\_\_\_\_\_], together with \$116,050 of amounts in the debt service reserve account for the Series 2011 Bonds, be deposited in the 2011 Refunding Subaccount (as hereinafter defined) in the Escrow Account and applied to the refunding of the Series 2011 Refunded Bonds.

4. The Agent (i) acknowledges receipt of the cash in the aggregate amount of \$[\_\_\_\_\_] to be deposited in a subaccount established hereby and denominated the “2010 Refunding Subaccount” to be applied to the refunding of the Series 2010 Refunded Bonds, (ii) acknowledges receipt of the cash in the aggregate amount of \$[\_\_\_\_\_] to be deposited in a subaccount established hereby and denominated the “2011 Refunding Subaccount” to be applied to the refunding of the Series 2011 Refunded Bonds, and (iii) agrees that it will hold such cash in such subaccounts within in a special segregated escrow account in the name of the City (the “Escrow Account”), that it will account separately for amounts apportioned to each subaccount for each refunding, and that it will remit from the 2010 Refunding Subaccount to the paying agent of the Series 2010 Bonds the funds required for the payment of principal of the Series 2010 Refunded Bonds and from the 2011 Refunding Subaccount to the paying agent of the Series

2011 Bonds the funds required for the payment of principal of the Series 2011 Refunded Bonds, in each case with interest thereon as shown on the attached Exhibit A (which is hereby incorporated herein and made a part hereof).

The Agent shall with respect to the Series 2010 Bonds:

(i) not less than 35 days prior to August 15, 2020, provide notice of the redemption of the Series 2010 Refunded Bonds (in the form of Exhibit B hereto, which is incorporated herein and made a part hereof) by certified mail, telecopy or other means required by the recipient, to any rating agency then maintaining a rating on the Series 2010 Bonds; to D.A. Davidson & Co., 8 Third Street North, Great Falls, Montana 59401, Attention: Aaron Rudio, as the original purchaser of the Series 2010 Bonds; to The Depository Trust Company, of New York, New York (“DTC”); and to the Municipal Securities Rulemaking Board (“MSRB”), through its Electronic Municipal Market Access system website (“EMMA”), as required by Section 2.08(d)(2) of the resolution of the City Council of the City adopted November 1, 2010, authorizing the issuance of the Series 2010 Bonds (the “2010 Resolution”); and

(ii) not less than 30 days prior to August 15, 2020, provide notice of the redemption of the Series 2010 Refunded Bonds (in the form of Exhibit B hereto), by first class mail, or by other means required by DTC, to the registered owners of each Series 2010 Refunded Bond to be redeemed at their addresses as they appear on the Bond Register, as required by Section 2.08(d)(1) of the 2010 Resolution.

The Agent shall with respect to the Series 2011 Bonds:

(i) within 10 days of the date hereof, provide notice of the defeasance of the Series 2011 Refunded Bonds (in the form of Exhibit C-1 hereto (which is incorporated herein and made a part hereof)) by telecopy, overnight delivery, mail or other means required by the recipient, to any rating agency then maintaining a rating on the Series 2011 Bonds and to the MSRB through EMMA;

(ii) not less than 35 days prior to July 1, 2021, provide notice of the redemption of the Series 2010 Refunded Bonds (in the form of Exhibit C-2 hereto (which is incorporated herein and made a part hereof)) by certified mail, telecopy or such other means as required by the recipient to D.A. Davidson & Co., 8 Third Street North, Great Falls, Montana 59401, Attention: Aaron Rudio, as the original purchaser of the Series 2011 Bonds; to DTC; and to the MSRB through EMMA, as required by Section 2.06(c)(2) of the resolution of the City Council of the City adopted on April 25, 2011, authorizing the issuance of the Series 2011 Bonds (the “2011 Resolution”); and

(iii) not less than 30 days prior to July 1, 2021, provide notice of the redemption of the Series 2010 Refunded Bonds (in the form of Exhibit C-2 hereto), by first class mail, or by other means required by DTC, to the registered owners of each Series 2011 Refunded Bonds to be redeemed at their addresses as they appear on the Bond Register, as required by Section 2.06(c)(1) of the 2011 Resolution.

After provision for payment of all Series 2010 Refunded Bonds with interest accrued thereon, the Agent will remit any remaining funds in the 2010 Refunding Subaccount to the City, to be applied toward the payment of the interest to become due on the Series 2020A Bonds on January 1, 2021. After provision for payment of all Series 2011 Refunded Bonds with interest thereon, the Agent will remit any remaining funds in the 2011 Refunding Subaccount to the City, to be applied toward the payment of the interest to become due on the Series 2020B Bonds on January 1, 2022.

5. The City represents, based on a certification from Baker Tilly Municipal Advisors, LLC, as municipal advisor to the City, that (i) the amount deposited by the City pursuant to this Agreement into the 2010 Refunding Subaccount (\$[\_\_\_\_\_]), is sufficient to redeem the Series 2010 Refunded Bonds on August 15, 2020 at a redemption price equal to par plus interest accrued thereon through the date of redemption, without premium; and (ii) the amount deposited by the City pursuant to this Agreement into the 2011 Refunding Subaccount (\$[\_\_\_\_\_]), is sufficient to pay principal of and interest as due on the Series 2011 Refunded Bonds coming due on or prior to July 1, 2021 and to redeem on July 1, 2021 the Series 2011 Refunded Bonds maturing on and after July 1, 2022 at a redemption price equal to par plus interest accrued thereon through the date of redemption, without premium.

6. The City acknowledges that regulations of the Comptroller of the Currency grant the City the right to receive brokerage confirmations of the security transactions as they occur. The City specifically waives such notification to the extent permitted by law and will receive periodic cash transaction statements from the Agent which will detail all investment transactions.

7. In order to ensure continuing compliance with Section 148 of the Code and applicable Treasury Regulations, the Agent agrees that it will not reinvest any cash received in payment of the principal of and interest on the federal securities held in the Escrow Account. Said prohibition on reinvestment shall continue unless and until an opinion is received from nationally recognized bond counsel that reinvestments in general obligations of the United States or obligations the principal of and interest on which are guaranteed as to payment by the United States, as specified in said opinion, may be made in a manner consistent with said Section 148 and then existing Treasury Regulations.

8. The Agent also acknowledges receipt of a sum described in a letter agreement between the City and the Agent, as and for full compensation for all services to be performed by it as Agent under this Agreement, and the Agent expressly waives any lien upon or claim against the moneys and investments in the Escrow Account.

9. If at any time it shall appear to the Agent that the money in the Escrow Account will not be sufficient to make any payment due to the owners of any of the Refunded Bonds, the Agent shall immediately notify the City. Upon receipt of such notice, the City shall forthwith transmit to the Agent for deposit in the Escrow Account from moneys on hand and legally available therefor, such additional moneys as may be required to make any such payment.

10. By no later than August 30, 2020, the Agent shall submit to the City a report covering all money it shall have received and all payments it shall have made or caused to be made with respect to the 2010 Refunding Subaccount. By no later than July 15, 2021, the Agent

shall submit to the City a report covering all money it shall have received and all payments it shall have made or caused to be made with respect to the 2011 Refunding Subaccount. Such reports shall also list the amount of money existing in the applicable subaccount, if any, on such date.

11. It is recognized that title to the moneys held in the subaccounts within the Escrow Account from time to time shall remain vested in the City but subject always to the prior charge and lien thereon of this Agreement and the use thereof required to be made by the provisions of this Agreement. The Agent shall hold all such money in the Escrow Account and the subaccounts therein as a special trust fund and account separate and wholly segregated from all other funds of the Agent on deposit therein and shall never commingle such money with other money. It is understood and agreed that the responsibility of the Agent under this Agreement is limited to the safekeeping and segregation of the funds deposited with it in the Escrow Account and the subaccounts therein and the collection of and accounting for any interest payable with respect thereto. Except as provided herein, no withdrawals, transfers or investment or reinvestment shall be made of cash balances in the subaccounts within the Escrow Account. Cash balances shall be held by the Agent as cash balances as shown on the books and records of the Escrow Agent and shall not be reinvested or invested by the Agent except as provided in Section 7 hereof.

12. This Agreement is made by the City for the benefit of the owners of the Refunded Bonds and is not revocable by the City, and the investments and other funds deposited in the Escrow Account and all income therefrom have been irrevocably appropriated for the payment and redemption of the Refunded Bonds and interest thereon, in accordance with this Agreement.

13. This Agreement shall be binding upon and shall inure to the benefit of the City and the Agent and their respective successors and assigns. In addition, this Agreement shall constitute a third-party beneficiary contract for the benefit of the owners of the Refunded Bonds. Said third-party beneficiaries shall be entitled to enforce performance and observance by the City and the Agent of the respective agreements and covenants herein contained as fully and completely as if said third-party beneficiaries were parties hereto. Any bank or trust company into which the Agent may be merged or with which it may be consolidated or any bank or trust company resulting from any merger or consolidation to which it shall be a party or any bank or trust company to which it may sell or transfer all or substantially all of its corporate trust business shall, if the City approves, be the successor agent hereunder without the execution of any additional document or the performance of any further act.

14. This Agreement may not be amended except to sever any clause herein deemed to be illegal or cure any ambiguity or correct or supplement any provision herein which may be inconsistent with any other provision; provided that the Agent shall determine that any such amendment shall not adversely affect the owners of the Refunded Bonds.



IN WITNESS WHEREOF the parties hereto have caused this Escrow Agreement to be duly executed by their duly authorized officers, as of June 30, 2020.

CITY OF MISSOULA, MONTANA

---

Mayor

---

City Clerk

U.S. BANK NATIONAL ASSOCIATION,  
as Escrow Agent

By \_\_\_\_\_  
Its Vice President

(Signature page to Escrow Agreement, dated June 30, 2020,  
with the City of Missoula, Montana)

EXHIBIT A

DEBT SERVICE SCHEDULE FOR  
REFUNDED BONDS

Series 2010 Refunded Bonds:

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
08/15/2020	\$9,085,000	\$[_____]	\$[_____]

Series 2011 Refunded Bonds:

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
01/01/2021	\$[_____]	\$[_____]	\$[_____]
07/01/2021	\$[_____]	\$[_____]	\$[_____]

EXHIBIT B

NOTICE OF REDEMPTION

Taxable Sewer System Revenue Bonds, Series 2010  
(Recovery Zone Economic Development Bonds—Direct Pay)  
City of Missoula, Montana

NOTICE IS HEREBY GIVEN that the City of Missoula, Montana (the “City”), has called for redemption all of its Taxable Sewer System Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds—Direct Pay), dated, as originally issued, as of November 15, 2010, maturing on July 1 in the years and amounts and bearing interest and CUSIP numbers as set forth below:

<u>Maturity</u> <u>(July 1)</u>	<u>Principal</u> <u>Amount</u>	<u>Interest</u> <u>Rate</u>	<u>CUSIP</u> <u>Number</u>
2021	\$ 270,000	4.649%	605855 DG7
2022	380,000	4.749%	605855 DH5
2023	355,000	4.849%	605855 DJ1
2025*	1,000,000	4.949%	605855 DL6
2030*	3,020,000	6.038%	605855 DR3
2035*	4,060,000	6.138%	605855 DW2

*\*Term Bonds*

Such bonds have been called for redemption on August 15, 2020, and interest thereon will cease to accrue from and after said date. The redemption price is equal to the principal amount of the bonds plus interest accrued to the redemption date, without premium.

Holder of such bonds maturing in said years should surrender their bonds for payment to U.S. Bank National Association, as paying agent, for payment on August 15, 2020 at its operations center at 60 Livingston Avenue - Bond Drop Window, St. Paul, Minnesota 55107 or if by mail to P.O. Box 64111, St. Paul, Minnesota 55164-0111.

Important Notice:

We are required by law to withhold an applicable portion of the principal amount of your holdings redeemed unless we are provided with your social security number or federal employer identification number, properly certified. Accordingly, you are instructed to submit at the time of surrender of your bonds a W-9 Form which may be obtained at a bank or other financial institution.

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time the payment is made if the tax identification number is not properly certified.

The paying agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the holders.

Interest on the bonds shall cease to accrue on August 15, 2020 and the holders thereof shall have no further rights with respect thereto except to receive the redemption price so deposited.

Dated: June 30, 2020.

U.S. BANK NATIONAL ASSOCIATION

EXHIBIT C-1

NOTICE OF DEFEASANCE

Taxable Sewer System Revenue Bonds, Series 2011  
City of Missoula, Montana

NOTICE IS HEREBY GIVEN that pursuant to and under the authority of the resolution of the City of Missoula, Montana, authorizing the issuance thereof, the Taxable Sewer System Revenue Bonds, Series 2011, dated, as originally issued, as of May 11, 2011, which mature on July 1 in the years and amounts and bear interest and CUSIP numbers as set forth below (the "Defeased Bonds"), are now payable from an escrow account established with U.S. Bank National Association, as escrow agent:

<u>Maturity (July 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP Number</u>
2021	\$ 60,000	4.50%	605865 AK0
2023*	130,000	5.00%	605865 AM6
2026*	235,000	5.25%	605865 AQ7
2027	85,000	5.30%	605865 AR5
2028	90,000	5.35%	605865 AG9
2029	90,000	5.40%	605865 AJ3
2030	100,000	5.45%	605865 AL8
2031	110,000	5.50%	605865 AN4

\*Term Bonds

The escrow account has been established with the escrow agent to pay the principal of and interest on all Defeased Bonds as they become due through July 1, 2021, on which date the Defeased Bonds will be paid in full or will be prepaid and redeemed at a redemption price equal to the principal amount thereof with interest accrued to the date of redemption, without premium. The Defeased Bonds are deemed to have been paid in accordance with the resolution authorizing their issuance, and are secured by and payable from the escrow account. Interest on the Defeased Bonds shall cease to accrue on July 1, 2021, and the Holders thereof shall have no further rights with respect thereto except to receive the redemption price so deposited. A further notice of redemption will be given in accordance with the requirements of the resolution authorizing the Defeased Bonds. As of the date hereof, the continuing disclosure requirements set forth in the resolution authorizing the Defeased Bonds shall terminate.

Dated: June 30, 2020.

U.S. BANK NATIONAL ASSOCIATION

EXHIBIT C-2

NOTICE OF REDEMPTION

Taxable Sewer System Revenue Bonds, Series 2011  
City of Missoula, Montana

NOTICE IS HEREBY GIVEN that the City of Missoula, Montana (the "City"), has called for redemption all of its Taxable Sewer System Revenue Bonds, Series 2011, dated, as originally issued, as of May 11, 2011, which mature on July 1 in the years and amounts and bear interest and CUSIP numbers as set forth below:

<u>Maturity (July 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>CUSIP Number</u>
2023*	\$ 130,000	5.00%	605865 AM6
2026*	235,000	5.25%	605865 AQ7
2027	85,000	5.30%	605865 AR5
2028	90,000	5.35%	605865 AG9
2029	90,000	5.40%	605865 AJ3
2030	100,000	5.45%	605865 AL8
2031	110,000	5.50%	605865 AN4

\*Term Bonds

Such bonds have been called for redemption on July 1, 2021, and interest thereon will cease to accrue from and after said date. The redemption price is equal to 100% of the principal amount of the bonds plus interest accrued to the date of redemption, without premium.

Holders of such bonds maturing in said years should surrender their bonds for payment to U.S. Bank National Association, of Seattle, Washington, as paying agent, for payment on July 1, 2021 at its operations center at 60 Livingston Avenue - Bond Drop Window, St. Paul, Minnesota 55107 or if by mail to P.O. Box 64111, St. Paul, Minnesota 55164-0111.

Important Notice:

We are required by law to withhold an applicable portion of the principal amount of your holdings redeemed unless we are provided with your social security number or federal employer identification number, properly certified. Accordingly, you are instructed to submit at the time of surrender of your bonds a W-9 Form which may be obtained at a bank or other financial institution.

Under the Jobs and Growth Tax Relief Reconciliation Act of 2003, federal backup withholding tax will be withheld at the applicable backup withholding rate in effect at the time the payment is made if the tax identification number is not properly certified.

The paying agent shall not be held responsible for the selection or use of the CUSIP number, nor is any representation made as to its correctness indicated in the Redemption Notice. It is included solely for the convenience of the holders.

Interest on the bonds shall cease to accrue on July 1, 2021 and the holders thereof shall have no further rights with respect thereto except to receive the redemption price so deposited.

Dated: May 15, 2021.

U.S. BANK NATIONAL ASSOCIATION



EXHIBIT D

Form of Continuing Disclosure Undertaking

\$[\_\_\_\_\_]  
Sewer System Revenue and Refunding Bonds, Series 2020A  
and  
\$[\_\_\_\_\_]  
Taxable Sewer System Revenue Refunding Bonds, Series 2020B  
City of Missoula, Montana

CONTINUING DISCLOSURE UNDERTAKING

This CONTINUING DISCLOSURE UNDERTAKING is made by the City of Missoula, Montana (the “City”) in connection with the issuance and delivery by the City of its \$[\_\_\_\_\_] Sewer System Revenue and Refunding Bonds, Series 2020A and \$[\_\_\_\_\_] Taxable Sewer System Revenue Refunding Bonds, Series 2020B (collectively, the “Bonds”), as of this 30th day of June, 2020.

(a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Rule”), the City hereby makes the following covenants and agrees, for the benefit of the Owners (as hereinafter defined) from time to time of the outstanding Bonds, to provide annual reports of specified information and notice of the occurrence of certain events to the Municipal Securities Rulemaking Board (“MSRB”) through its Electronic Municipal Market Access system website (“EMMA”), as hereinafter described. The City is the only “obligated person” in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made.

If the City fails to comply with this Continuing Disclosure Undertaking, any person aggrieved thereby, including the Owners of any outstanding Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of this Continuing Disclosure Undertaking, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Continuing Disclosure Undertaking constitute a default under the Bonds or under any other provision of the Resolution.

As used herein, “Owner” means, in respect of a Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any Beneficial Owner (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, “Beneficial Owner” means, in respect of a Bond, any person or entity that (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of,

such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) on or before 270 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 2020, the following financial information and operating data in respect of the City (the “Disclosure Information”):

(A) the audited financial statements of the City for such fiscal year, accompanied by the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State of Montana, containing a balance sheet as of the end of such fiscal year and a statement of revenues, expenses, and changes in fund net position and cash flows for the System for the fiscal year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under Montana law, as in effect from time to time or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof; and

(B) to the extent compiled by the City on a customary basis and publicly available and not included in the financial statements referred to in paragraph (A) above, information of the type set forth below:

(1) updated information regarding any changes in the user rates containing the information set forth in the table under the heading “Sewer Rates” in the Official Statement;

(2) updated information regarding the number of customers for such fiscal year in a format similar to the table “Number of Customers” in the Official Statement;

(3) updated information regarding the treatment requirements of the System for such fiscal year in a format similar to the table “Sewage Treatment Requirements” in the Official Statement;

(4) the ten largest customers of the System for such fiscal year, in a format similar to the table under the heading “Largest Customers” in the Official Statement; and

(5) the debt service coverage ratio for the System for such fiscal year.

Notwithstanding anything herein, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within ten days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated, if it is updated as required hereby, by reference from other documents, including official statements, which have been submitted to the MSRB in the manner set forth in subsection (c) hereof. The City shall clearly identify the Disclosure Information in each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be material (as hereinafter defined), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or this Continuing Disclosure Undertaking is amended, then the City shall include in the next Disclosure Information to be delivered pursuant to this Continuing Disclosure Undertaking, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(2) In a timely manner not in excess of ten business days, notice of the occurrence of any of the following events:

- (A) principal and interest payment delinquencies;
- (B) non-payment related defaults, if material;
- (C) unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) substitution of credit or liquidity providers, or their failure to perform;
- (F) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the

tax status of the Bonds or other material events affecting the tax status of the Bonds;

(G) modifications to rights of holders of the Bonds, if material;

(H) bond calls, if material, and tender offers;

(I) defeasances;

(J) release, substitution or sale of property securing repayment of the Bonds, if material;

(K) rating changes;

(L) bankruptcy, insolvency, receivership, or similar event of the obligated person;

(M) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material;

(N) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(O) incurrence of a financial obligation of the obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City or obligated person, any of which affect security holders, if material; and

(P) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the City or obligated person, any of which reflect financial difficulties.

An event is “material” if it is an event as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed in this Bond Resolution or information generally available to the public. Notwithstanding the foregoing sentence, an event is also “material” if it is an event that would be deemed material for purposes of the purchase, holding or sale of a Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

For purposes of paragraphs (O) and (P) above, the term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or

(iii) guarantee of either (i) or (ii). A “financial obligation” does not include municipal securities for which a final official statement has been provided to the MSRB consistent with the Rule.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

(A) the failure of the City to provide the Disclosure Information described above under paragraph (b)(1) above at the time specified thereunder;

(B) the amendment or supplementing of this Continuing Disclosure Undertaking, together with a copy of such amendment or supplement and any explanation provided by the City; and

(C) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in subsection (b) hereof to the MSRB via EMMA or in a manner as may be otherwise proscribed by the MSRB consistent with the Rule. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(d) Term; Amendments; Interpretation.

(1) This Continuing Disclosure Undertaking shall remain in effect so long as any Bonds are outstanding.

(2) This Continuing Disclosure Undertaking (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (b)(3) hereof) or the consent of the Owners of any Bonds, by a resolution of the City Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that the Continuing Disclosure Undertaking (and the form and requirements of the Disclosure Information), as so amended or supplemented, will comply with the provisions of paragraph (b)(5) of the Rule, assuming that such provisions apply to the Bonds.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

(3) This Continuing Disclosure Undertaking is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so the undertaking would satisfy the requirements of paragraph (b)(5) of the Rule.

Dated: June 30, 2020.

CITY OF MISSOULA, MONTANA

By \_\_\_\_\_  
Mayor

By \_\_\_\_\_  
City Clerk

EXHIBIT D

[Bond insurance provisions, if applicable]

EXHIBIT E

[Form of Escrow Agreement]





**City of Missoula, Montana**  
**Item to be Referred to City Council Committee**

**Committee:** Administration and Finance

**Item:** Resolution Amending and Restating Resolution Nos. 7578, 7579, 7613, 7735, 8006 and 8117 Relating to the City’s Sewer System Revenue Bonds

**Date:** June 11, 2020

**Sponsor(s):** Leigh Griffing

**Prepared by:** Leigh Griffing

**Ward(s) Affected:**

- Ward 1
- Ward 2
- Ward 3
- All Wards
- Ward 4
- Ward 5
- Ward 6
- N/A

**Action Required:**

Approve Resolution Amending and Restating prior bond resolutions

**Recommended Motion(s):**

I move the City Council: approve the “Resolution Amending and Restating Resolution Nos. 7578, 7579, 7613, 7735, 8006 and 8117 Relating to the City’s Sewer System Revenue Bonds”

**Timeline:**

Referral to committee:	June 15, 2020
Committee discussion:	Wednesday, June 17, 2020
Council action (or sets hearing):	Monday, June 22, 2020
Public Hearing:	n/a
Deadline:	n/a

**Background and Alternatives Explored:**

In connection with the 2010 and 2011 bonds refunding, the City desires to amend and restate the Prior Resolution to, among other things, provide that the City may use a Surety Bond (as hereinafter defined) in substitution for or to fund all or a portion of the Reserve Requirement on deposit in the Reserve Account, and the City has determined that it is more convenient and efficient for the City to amend and restate the Prior Resolution in its entirety

**Financial Implications:**

After the refunding the holders of the City’s outstanding obligations will be the DNRC and First Security Bank. Each has consented in writing to the amendment and restatement of the prior resolution.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Missoula, Montana (the “City”), hereby certify that the attached resolution is a true copy of Resolution No. [\_\_\_\_], entitled: “**Resolution Amending and Restating Resolution Nos. 7578, 7579, 7613, 7735, 8006 and 8117 Relating to the City’s Sewer System Revenue Bonds**” (the “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on June 22, 2020, and that the meeting was duly held by the City Council 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 Council Members voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_; voted against the same: \_\_\_\_\_  
\_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_  
\_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this 22nd day of June, 2020.

\_\_\_\_\_  
City Clerk

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RESOLUTION NO. [ \_\_\_\_\_ ]

**Resolution Amending and Restating Resolution Nos. 7578,  
7579, 7613, 7735, 8006 and 8117 Relating to the City's Sewer  
System Revenue Bonds**

WHEREAS, the City of Missoula, Montana (the "City"), pursuant to authority conferred by Montana Code Annotated, Title 7, Chapter 13, Parts 42 and 43 and Title 7, Chapter 7, Part 44, as amended, has established and presently owns and operates a municipal sewer system; and

WHEREAS, under provisions of Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the "Act"), the City is authorized to sell and issue its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of a municipal sewer system and to issue refunding bonds to refund bonds issued for such purposes, provided that the bonds and the interest thereon are to be payable solely out of the income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such sewer system, and are not to create any obligation for the payment of which taxes may be levied, except to pay for services provided by the sewer system to the City; and

WHEREAS, pursuant to such authority and Resolution No. 7578, adopted by the Council on November 1, 2010, as amended and supplemented by Resolution Nos. 7579, 7613, 7735, 8006 and 8117, adopted by the Council on November 1, 2010, May 2, 2011, November 5, 2012, September 14, 2015 and November 14, 2016, respectively (as so amended and supplemented, the "Prior Resolution"), the City has issued and there are outstanding its Series 2000B Bond, Series 2001A Bond, Series 2002A Bond, Series 2002B Bond, Series 2003 Bond, Series 2004 Bond, Series 2005 Bond, Series 2009B Bond, Series 2010 Bonds, Series 2011 Bonds, Series 2015 Bond, Series 2016A Bond and Series 2016B Bond (each, as hereinafter defined); and

WHEREAS, the City has determined to refund the Series 2010 Bonds and the Series 2011 Bonds; and

WHEREAS, in connection with such refunding, the City desires to amend and restate the Prior Resolution to, among other things, provide that the City may use a Surety Bond (as hereinafter defined) in substitution for or to fund all or a portion of the Reserve Requirement on deposit in the Reserve Account, and the City has determined that it is more convenient and efficient for the City to amend and restate the Prior Resolution in its entirety; and

WHEREAS, the City reserved the right to amend the Prior Resolution with the written consent of the holders of two-thirds in principal amount of its outstanding obligations issued under the Prior Resolution and the DNRC (as hereinafter defined); and

WHEREAS, following the refunding of the Series 2010 Bonds and Series 2011 Bonds, the holders of the City's outstanding obligations are the DNRC, as holder of the Series 2000B Bond, Series 2001A Bond, Series 2002A Bond, Series 2002B Bond, Series 2003 Bond, Series 2004 Bond, Series 2005 Bond, Series 2009B Bond, and Series 2015 Bond (collectively, the "Outstanding SRF Bonds"), and First Security Bank of Missoula, a Division of Glacier Bank

(“FSB”), as holder of the Series 2016A Bond and Series 2016B Bond (collectively, the “Outstanding Bank Bonds”); and

WHEREAS, [the DNRC and FSB have each consented in writing to the amendment and restatement of the Prior Resolution as set forth herein]; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOULA, MONTANA THAT THIS RESOLUTION SHALL AMEND, RESTATE AND SUPERSEDE THE PRIOR RESOLUTION IN ITS ENTIRETY 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 selected by the City and, so long as any SRF Bonds are Outstanding, reasonably satisfactory to the DNRC.

“Acquisition and Construction Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.2.

“Act” means Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended.

“Additional Bonds” means any Bonds issued pursuant to Article V of this Resolution, excluding Subordinate Obligations.

“Administrative Expense Surcharge” means, with respect to each Outstanding SRF Bond, the surcharge by that name charged by the DNRC to the City, if any, at the rate per annum set forth in the Outstanding SRF Bond and payable by the City on the same dates that payments of interest on such Outstanding SRF Bond are due.

“Bond Counsel” shall mean any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, selected by the City; provided that so long as any SRF Bonds are Outstanding, such Bond Counsel shall be reasonably acceptable to the DNRC.

“Bond Register” means the registration books to be maintained by the Registrar with respect to any series of Bonds.

“Bonds” means the Outstanding SRF Bonds, the Outstanding Bank Bonds and any Additional Bonds.

“Business Day” means any day which is not a Saturday or Sunday, a legal holiday in the State or a day on which banks in Montana are authorized or required by law to close.

“City” means the City of Missoula, Montana, or any permitted successor or assign.

“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.

“Code” means the Internal Revenue Code of 1986, as amended.

“Collateral Documents” means, with respect to any Outstanding SRF Bonds, any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the City under this Resolution and the Outstanding SRF Bonds. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Resolution shall be without effect.

“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 any Project, selected by the City and, so long as any SRF Bonds are Outstanding, reasonably satisfactory to the DNRC.

“Council” means the City Council of the City.

“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.

“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 State Act.

“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.

“Fiscal Year” means the period commencing on the first day of July of any year and ending on the last day of June of the next calendar year, or any other twelve-month period authorized by law and specified by this Council as the City’s Fiscal Year.

“FSB” means First Security Bank of Missoula, a Division of Glacier Bank, as holder of the Outstanding Bank Bonds, and any successor or assign.

“Government Obligations” means obligations which are general obligations of the United States or securities of United States agencies which are authorized by law to be so deposited, or money market funds invested in such obligations, which are not subject to redemption or prepayment other than at the option of the holder thereof.

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



“Gross Revenues” means all revenues and receipts from rates, fees, charges and rentals imposed for connections with and for the availability, benefit and use of the System and from any sales of property which is a part of the System and all income received from the investment of such revenues and receipts, including interest earnings on the Operating Account, the Reserve Account, the Replacement and Depreciation Account and the Surplus Account, but excluding any special assessments or taxes levied for construction of any part of the System and the proceeds of any grant or loan from the State or the United States, and any investment income thereon, to the extent such exclusion is a condition to such grant or loan.

“Holder” means the Person in whose name a Bond is registered in the Bond Register.

“Indenture” means, with respect to any Outstanding SRF Bond, 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.

“Loan Loss Reserve Surcharge” means, with respect to each Outstanding SRF Bond, the surcharge by that name charged by the DNRC to the City, if any, at the rate per annum set forth in the Outstanding SRF Bond and payable by the City on the same dates that payments of interest on such Outstanding SRF Bond are due.

“Net Revenues” means the Gross Revenues for a specified period less the Operating Expenses for the same period.

“Note Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.9.

“Notes” means all Notes issued pursuant to Section 5.5.

“Operating Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.3.

“Operating Expenses” means the current expenses, paid or accrued, of operation, maintenance and minor repair of the System, excluding interest on the Bonds and depreciation, as calculated in accordance with generally accepted accounting principles, and shall include, without limitation, administrative expenses of the City relating solely to the System, public works cost allocation, premiums for insurance on the properties thereof, labor and the cost of materials and supplies used for current operation and for maintenance, charges for the accumulation of the Operating Reserve, and charges for the accumulation of appropriate reserves for current expenses which are not recurrent regularly but may reasonably be expected to be incurred.

“Operating Reserve” means the reserve to be maintained in the Operating Account as required by Section 6.3.

“Outstanding” means, with reference to Bonds or Notes, as of the date of determination, all Bonds theretofore issued and delivered under this Resolution except:

(a) Bonds or Notes theretofore cancelled by the City or delivered to the City cancelled or for cancellation;

(b) Bonds or Notes and portions of Bonds or Notes for whose payment or redemption money or Government Obligations (as provided in Section 10.04) shall have been theretofore deposited in trust for the Holders of such Bonds or Notes; provided, however, that if such Bonds or Notes are to be redeemed, notice of such redemption shall have been duly given pursuant to this Resolution or irrevocable instructions to call such Bonds for redemption at a stated Redemption Date shall have been given by the City; and

(c) Bonds or Notes in exchange for or in lieu of which other Bonds or Notes shall have been issued and delivered pursuant to this Resolution;

provided, however, that in determining whether the Holders of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the City shall be disregarded and deemed not to be Outstanding.

“Outstanding Bank Bonds” means the outstanding Series 2016A Bond and Series 2016B Bond issued to FSB.

“Outstanding SRF Bonds” means the outstanding Series 2000B Bond, Series 2001A Bond, Series 2002A Bond, Series 2002B Bond, Series 2003 Bond, Series 2004 Bond, Series 2005 Bond, Series 2009B Bond, and Series 2015 Bond issued to the DNRC under the Program.

“Person” means any Private Person or Public Entity.

“Prior Loan” means any loan made to the City by the DNRC evidenced by an Outstanding SRF Bond to provide funds to pay all or a portion of the costs of a Prior SRF Project under the Program.

“Prior SRF Projects” means the Projects financed with proceeds of the Outstanding SRF Bonds, each as described in Appendix A hereto.

“Prior Resolution” means Resolution No. 7578, adopted by the Council on November 1, 2010, as amended and supplemented by Resolution Nos. 7579, 7613, 7735, 8006 and 8117, adopted by the Council on November 1, 2010, May 2, 2011, November 5, 2012, September 14, 2015 and November 14, 2016, respectively.

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

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

“Project” means the designing, engineering, acquiring, constructing, installing, improving, or enlarging the System, or any part thereof.

“Public Entity” means a State agency, municipality, city, county, school district, political or administrative subdivision of State government, irrigation district, county water and sewer district or other public body established by State law.

“Rebate Account” means the account within in the Sewer System Fund established pursuant to Sections 6.1 and 6.10.

“Redemption Date” means, with respect to any Obligation to be redeemed, the date on which it is to be redeemed pursuant hereto.

“Registrar” means, with respect to any Outstanding SRF Bond, the Registrar appointed pursuant to Section 3.3; with respect to the Outstanding Bank Bonds, the Registrar appointed pursuant to Section 4.3; or, with respect to a series of Additional Bonds, the Registrar appointed pursuant to the Supplemental Resolution authorizing the issuance of such Additional Bonds.

“Regulations” shall mean the Treasury Regulations promulgated under the Code.

“Replacement and Depreciation Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.6.

“Reserve Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.5.

“Reserve Requirement” means, as of the date of calculation, an amount equal to the maximum amount of principal and interest payable on the Bonds in the current or any future Fiscal Year (giving effect to any Sinking Fund Payment Dates with respect to any series of Bonds). The definition of “Reserve Requirement” is subject to amendment as provided in the Supplemental Resolution authorizing the Series 2020 Bonds (as defined therein).

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

“Revenue Bond Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.4.

“Series 2000B Bond” means the City’s \$357,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2000B, which is outstanding as of June 1, 2020 in the principal amount of \$24,000.

“Series 2001A Bond” means the City’s \$238,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2001A, which is outstanding as of June 1, 2020 in the principal amount of \$30,000.

“Series 2002A Bond” means the City’s \$730,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2002A, which is outstanding as of June 1, 2020 in the principal amount of \$166,000.

“Series 2002B Bond” means the City’s \$2,890,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2002B, which is outstanding as of June 1, 2020 in the principal amount of \$805,000.

“Series 2003 Bond” means the City’s \$2,431,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2003, which is outstanding as of June 1, 2020 in the principal amount of \$840,000.

“Series 2004 Bond” means the City’s \$2,453,000 First Amended and Restated Sewerage System Revenue Bond (DNRC Revolving Loan Program), Series 2004, which is outstanding as of June 1, 2020 in the principal amount of \$925,000.

“Series 2005 Bond” means the City’s \$1,227,000 First Amended and Restated Sewer System Revenue Bond (DNRC Revolving Loan Program), Series 2005, which is outstanding as of June 1, 2020 in the principal amount of \$563,000.

“Series 2009B Bond” means the City’s \$426,000 First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009B, which is outstanding as of June 1, 2020 in the principal amount of \$276,000.

“Series 2010 Bonds” means the City’s \$10,345,000 Taxable Sewer System Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds – Direct Pay), which will be defeased and refunded on June 30, 2020.

“Series 2011 Bonds” means the City’s \$1,290,000 Taxable Sewer System Revenue Bonds, Series 2011, which will be defeased and refunded on June 30, 2020.

“Series 2015 Bond” means the City’s \$970,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015, which is outstanding as of June 1, 2020 in the principal amount of \$753,000.

“Series 2016A Bond” means the City’s \$1,766,000 Sewer System Revenue Bond, Series 2016A, which is outstanding as of June 1, 2020 in the principal amount of \$1,563,562.

“Series 2016B Bond” means the City’s \$1,262,000 Sewer System Revenue Bond, Series 2016B, which is outstanding as of June 1, 2020 in the principal amount of \$998,198.

“Sewer System Fund” means the Sewer System Fund established pursuant to Section 6.1.

“Sinking Fund Payment Date” means a date set forth in any applicable provision of this Resolution or a Supplemental Resolution for the making of a mandatory principal payment for the redemption of a Term Bond.

“SRF Bonds” means the Bonds issued by the City to the DNRC under the Program.

“State” means the State of Montana.

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

“State Bonds” means the State’s General Obligation Bonds (Water Pollution Control State Revolving Fund Program), issued or to be issued pursuant to the Indenture.

“Stated Maturity” means, with respect to any Obligation, the date specified in such Obligation as the fixed date on which the principal of such Obligation is due and payable.

“Subordinate Obligations” means any bonds, notes or obligations of the City issued on a subordinate basis to the Bonds as to Net Revenues pursuant to Section 5.4.

“Subordinate Obligations Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.8.

“Supplemental Resolution” means any resolution supplemental to or amendatory of this Resolution adopted in accordance with the requirements of Article IIX.

“Surety Bond” means a surety bond issued for the Reserve Account by an insurance company initially rated in one of the two highest rating categories by Fitch, Inc., Moody’s Investors Service, Inc., or Standard & Poor’s, a division of The McGraw-Hill Companies, Inc., or any successors thereto.

“Surplus Account” means the account within the Sewer System Fund established pursuant to Sections 6.1 and 6.7.

“Surplus Net Revenues” shall mean that portion of the Net Revenues in excess of the current requirements of the Revenue Bond Account and the Reserve Account.

“System” means the existing municipal sewer system of the City and all extensions, improvements and betterments thereof hereafter constructed and acquired, including, without limitation, each Project.

“Term Bond” shall mean any Bond for the payment of the principal of which mandatory payments are required by this Resolution or Supplemental Resolution to be made at times and in amounts sufficient to redeem all or a portion of such Bond prior to its Stated Maturity.

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

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.

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

- (a) Appendix A: Description of the Projects Financed with Outstanding SRF Bonds and Outstanding Bank Bonds
- (b) Appendix B: Representations and Covenants to DNRC and DEQ

## ARTICLE II

### THE BONDS

Section 2.1. General Title. The general title of the Bonds of all series shall be “Sewer System Revenue Bonds.” Bonds of each series shall be titled so as to distinguish them from Bonds of all other series.

Section 2.2. General Limitations; Issuable in Series. The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Resolution is not limited, except as provided in Article V or any Supplemental Resolution under which any series of Bonds is issued and except as may be limited by law.

The Bonds may be issued in series as from time to time authorized by the Council. With respect to the Bonds of any particular series, the City may incorporate in or add to the general title of such Bonds any words, letters or fixtures designed to distinguish that series.

The Bonds shall be special, limited obligations of the City. Principal of, premium, if any, and interest on the Bonds shall be payable solely from Net Revenues (other than to the extent payable out of proceeds of the Bonds). The Bonds shall not be or constitute a pledge of the general credit or taxing powers of the City of any kind whatsoever. Neither the Bonds nor any of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory limitations or provisions.

If the Stated Maturity for the payment of any interest on or principal of any Bond or if any Redemption Date or Sinking Fund Payment Date shall be a day which is not a Business Day, then such payment may be made on the next succeeding Business Day, with the same force

and effect as if made on such Stated Maturity, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

Section 2.3. Terms of Particular Series. Each series of Bonds (except the Outstanding SRF Bonds and the Outstanding Bank Bonds, which were created under the Prior Resolution and which exist and are confirmed and ratified pursuant to this Resolution) shall be created by a Supplemental Resolution. The Bonds of each series (except the Outstanding SRF Bonds and the Outstanding Bank Bonds, which were created under the Prior Resolution and which exist and are confirmed and ratified pursuant to this Resolution) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, shall be payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Resolution creating that series, all upon such terms as the City may determine. The City may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain provision for:

- (a) a sinking, amortization, improvement or other analogous fund;
- (b) limiting the aggregate principal amount of the Bonds of that series and of additional Bonds thereafter to be issued;
- (c) exchanging Bonds of that series, at the option of the Holders thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations; or
- (d) registration, transfer and delivery.

Section 2.4. Form and Denominations of Particular Series. The form of the Bonds of each series (except the Outstanding SRF Bonds and the Outstanding Bank Bonds, which were created under the Prior Resolution and which exist and are confirmed and ratified pursuant to this Resolution) shall be established by the provisions of the Supplemental Resolution creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the City may determine.

The Bonds of each series shall be in such denominations as shall be provided in the Supplemental Resolution creating such series (except the Outstanding SRF Bonds and the Outstanding Bank Bonds, which were created under the Prior Resolution and which exist and are confirmed and ratified pursuant to this Resolution). In the absence of any such provision with respect to the Bonds of any particular series, the Bonds of such series shall be in the denomination of \$5,000 or any integral multiple thereof of single maturities.

Section 2.5. Execution and Authentication. The Bonds shall be executed on behalf of the City by the manual or facsimile signature of the Mayor, and attested by the signature of the City Clerk (or other officers of the City authorized by Supplemental Resolution). The signature of any official may be facsimile, if permitted by applicable law. Any Bond bearing the manual or facsimile signature of an individual who was at any time an appropriate officer of the City shall be valid and sufficient for all purposes, regardless whether such individual held such office

as of the date of sale, issue or delivery of such Bond. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on each Bond need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution and in accordance with the provisions hereof. The seal of the City need not be affixed to or imprinted on any Bond.

Section 2.6. Priority of Payments. All Bonds shall be secured, equally and ratably, by a first lien upon the Net Revenues of the System (the Gross Revenues being subject to the prior appropriation thereof to the Operating Account for the payment of Operating Expenses) and secured by the Reserve Account, without preference or priority of any one Bond over any other by reason of serial number, date of issue, series designation or otherwise; provided that if at any time the Net Revenues on hand in the Sewer System Fund are insufficient to pay principal and interest then due on all such Bonds, any and all Net Revenues and taxes then on hand shall be first applied pro rata toward payment of interest accrued on all Outstanding Bonds, and the balance, if any, shall be applied pro rata toward payment of the maturing principal of such Bonds.

### ARTICLE III

#### OUTSTANDING SRF BONDS AND REPAYMENT OF PRIOR LOANS

Section 3.1. Issuance and Sale of the Outstanding SRF Bonds. Each Outstanding SRF Bond was issued pursuant to the Act and the Prior Resolution as then in effect. Each Outstanding SRF Bond was issued and sold to the DNRC without public sale pursuant to Section 7-7-4433 of the Act. Each Outstanding SRF Bond and its terms is herein confirmed and ratified and the Outstanding SRF Bonds shall be governed pursuant to this Resolution. The Outstanding SRF Bonds continue to be evidenced by each Outstanding SRF Bond held by the DNRC and there shall be no need to amend or restate or deliver a bond in replacement of any Outstanding SRF Bond. Each Outstanding SRF Bond is and remains valid and enforceable in the forms currently held by the DNRC.

Section 3.2. Terms. Each Outstanding SRF Bond was issued as a single, fully registered bond, in the maximum principal amount, with the dated date and bearing interest at the rate set forth in the form of such obligation, which have been issued to and are currently held by the DNRC. The Outstanding SRF Bonds continue to be in full force and effect as authorized by the Prior Resolution and confirmed hereby. The principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, on each Outstanding SRF Bond are payable on the same dates and in the same amounts as the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, on the corresponding Prior Loan are payable, as shown on Schedule B to each Outstanding SRF Bond. The City may prepay each Outstanding SRF Bond, in whole or in part, only upon the terms and conditions under which it can prepay the corresponding Prior Loan.



Section 3.3. Negotiability, Transfer and Registration. Each Outstanding SRF Bond was issued fully registered as to both principal and interest, and was initially registered in the name of and payable to the DNRC. While so registered, principal of and interest on each Outstanding SRF Bond shall continue to be payable to the DNRC at the Office of the Department of Natural Resources and Conservation, 1625 Eleventh Avenue, P.O. Box 201601, Helena, Montana 59620-1601, Attention: Conservation and Resource Development Division, or such other place as may be designated by the DNRC in writing and delivered to the City. Each Outstanding SRF Bond was issued as a negotiable Bond, subject to the provisions for registration and transfer contained in this Section 3.3. No transfer of any Outstanding SRF Bond shall be valid unless and until (1) the holder of such Outstanding SRF Bond, or his duly authorized attorney or legal representative, has executed the form of assignment appearing on such Outstanding SRF Bond, and (2) the City Finance Director, as registrar, transfer agent and paying agent (the "Registrar"), has duly noted the transfer on such Outstanding SRF Bond and recorded the transfer in the Bond Register. The Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. The City shall be entitled to deem and treat the person in whose name an Outstanding SRF Bond is registered as the absolute owner of such Outstanding SRF Bond for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the City's liability upon such Outstanding SRF Bond to the extent of the sum or sums so paid.

Section 3.4. Execution and Delivery. Each Outstanding SRF Bond was executed on behalf of the City by the manual or facsimile signatures of the Mayor and the City Clerk. Each Outstanding SRF Bond was delivered to the DNRC, or its attorney or legal representative.

Section 3.5. Repayment of Prior Loans. The payments of principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, on the Prior Loans shall be due on the dates and in the amounts shown in Schedule B to the corresponding Outstanding SRF Bond. The portion of each such loan repayment consisting of principal, the portion consisting of interest and the amount of each Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, shall be as set forth in Schedule B to the respective Outstanding SRF Bond.

Past-due payments of principal and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, shall bear interest at the rate of ten percent (10.00%) per annum, until paid.

Any payment of principal, interest, Administrative Expense Surcharge or Loan Loss Reserve Surcharge under this Section 3.5 shall also be credited against the same payment obligation under the corresponding Outstanding SRF Bond.

Section 3.6. Additional Payments. The City shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, all reasonable expenses of the DNRC and the Trustee in connection with the Outstanding SRF Bonds, including, but not limited to:

- (i) the cost of reproducing this Resolution, the Collateral Documents and the Outstanding SRF Bonds;

(ii) the fees and disbursements of Bond Counsel and other counsel utilized by the DNRC and the Trustee in connection with the Outstanding SRF Bonds and the enforcement thereof; and

(iii) all taxes and other governmental charges in connection with the execution and delivery of the Outstanding SRF Bonds or the Collateral Documents, whether or not the Outstanding SRF Bonds are then outstanding, including all recording and filing fees relating to the Collateral Documents and the pledge of the State's right, title and interest in and to the Outstanding SRF Bonds, the Collateral Documents and this Resolution (and with the exceptions noted therein) and all expenses, including attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof or thereof.

Section 3.7. Prepayments. The City may not prepay all or any part of the outstanding principal amount of the Outstanding SRF Bonds unless (i) it obtains the prior written consent of the DNRC thereto, and (ii) no principal, interest or Administrative Expense Surcharge or Loan Loss Reserve Surcharge, if any, relating to such Bond is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Outstanding SRF Bonds are prepaid in part pursuant to this Section 3.7, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 3.8. Obligations of City Unconditional. The obligations of the City to make the payments required by this Resolution and the Outstanding SRF Bonds and to perform its other agreements contained in this Resolution, the Outstanding SRF Bonds and Collateral Documents shall be absolute and unconditional, except as otherwise provided herein or in such documents. The City (a) shall not suspend or discontinue any payments provided for in this Resolution and the Outstanding SRF Bonds, (b) shall perform all its other agreements in this Resolution, the Outstanding SRF Bonds and the Collateral Documents and (c) shall not terminate this Resolution, the Outstanding SRF Bonds or the Collateral Documents for any cause, including any acts or circumstances that may constitute failure of consideration, destruction of or damage to the Prior SRF Projects or the System, commercial frustration of purpose, any dispute with the DNRC or the EPA, any change in the laws of the United States or of the State or any political subdivision of either or any failure of the DNRC to perform any of its agreements, whether express or implied, or any duty, liability or obligation arising from or connected with this Resolution.

Section 3.9. Limited Liability. All payments of principal of and interest on the Prior Loans and other payment obligations of the City hereunder and under the Outstanding SRF Bonds shall be special, limited obligations of the City payable solely out of the Net Revenues and shall not be payable out of any other revenues of the City. The obligations of the City under this Resolution and the Outstanding SRF Bonds shall never constitute an indebtedness of the City within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing power. The taxing powers of the City are not pledged to pay principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, on the

Outstanding SRF Bonds, and no funds or property of the City other than the Net Revenues are pledged to pay the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge, if any, on the Outstanding SRF Bonds.

ARTICLE IV  
THE OUTSTANDING BANK BONDS

Section 4.1. Title, Principal Amount, Interest Rate and Stated Maturity.

(a) The Series 2016A Bond. The Series 2016A Bond was issued in the aggregate principal amount of \$1,766,000 and shall mature, subject to redemption as hereinafter provided, by January 1, 2037. The Series 2016A Bond shall bear interest from the date of original issue, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of 2.75% per annum. The principal of and interest on the Series 2016A Bond are payable in the amounts and on the respective dates reflected in the Debt Service Schedule attached as Schedule 1 to the Series 2016A Bond.

(b) The Series 2016B Bond. The Series 2016B Bond was issued in the principal amount set forth on the Schedule of Advances attached as Schedule 1 to the Series 2016B Bond and shall mature not later than 10 years after the first principal and interest payment on the Series B Bond. The Series B Bond shall bear interest on the outstanding principal amount from the date of original issue, or from such later date to which interest has been paid or duly provided for, until paid or discharged at the rate of 2.25% per annum. The principal of and interest on the Series B Bond are payable in the amounts and on the respective dates reflected in the final Debt Service Schedule attached as Schedule 2 to the Series 2016B Bond following the final advance of principal of the Series 2016B Bond.

(c) Principal of and interest on the Outstanding Bank Bonds shall be payable by check or draft of the Registrar mailed to the registered owner as such appears in the Bond Register as of the close of business on the 15th day (whether or not a Business Day) of the month immediately preceding each Payment Date; *provided* that the final installment of principal (whether at maturity or earlier redemption) plus interest shall be paid by the Registrar only upon presentation and surrender of the Outstanding Bank Bonds at the principal corporate trust office of the Registrar, which at the date of this Resolution is located in Seattle, Washington, 1420 Fifth Avenue, 7th Floor, provided that with respect to any exchange, transfer or surrender of the Outstanding Bank Bonds, means c/o U.S. Bank National Association, 60 Livingston Avenue, St. Paul, Minnesota 55107, or such other location designated in writing by the Registrar. The Registrar shall note in the Bond Register each principal payment on the Outstanding Bank Bonds.

(d) The Outstanding Bank Bonds continue to be evidenced by each Outstanding Bank Bond held by FSB and there shall be no need to amend or restate or deliver a bond in replacement of any Outstanding Bank Bond. Each Outstanding Bank Bond is and remains valid and enforceable in the forms currently held by FSB.

Section 4.2. System of Registration. The City has appointed, and shall maintain, a Registrar for the Outstanding Bank Bonds. This Section 4.2 sets forth the system of registration for the Outstanding Bank Bonds as defined in the Model Public Obligations Registration Act of Montana. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its principal corporate trust office a Bond Register in which the Registrar shall provide for the registration of ownership of Outstanding Bank Bonds and the registration of transfers and exchanges thereof.

(b) Transfer. The Outstanding Bank Bonds may be transferred in whole and not in part. Upon surrender for transfer of an Outstanding Bank Bond duly endorsed by the owner or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the owner thereof or by an attorney duly authorized by the owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, a new Outstanding Bank Bond of the same series and a like aggregate principal amount, interest rate and maturity. The Registrar may, however, close the books for registration of transfer of the Outstanding Bank Bonds or portion thereof selected or called for redemption.

(c) Exchange. Whenever an Outstanding Bank Bond is surrendered by the owner for exchange, the Registrar shall authenticate and deliver a new Outstanding Bank Bond of the same series and a like aggregate principal amount, interest rate and maturity.

(d) Cancellation. The Outstanding Bank Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When the Outstanding Bank Bonds are presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Outstanding Bank Bond or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owner. The City and the Registrar may treat the Person in whose name the Outstanding Bank Bonds are at any time registered in the Bond Register as the absolute owner of such Outstanding Bank Bond, whether such Outstanding Bank Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, and interest on such Outstanding Bank Bond and for all other purposes, and all such payments so made to any such owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability of the City upon such Outstanding Bank Bonds to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of an Outstanding Bank Bond (except upon a partial redemption of an Outstanding Bank Bond

pursuant to Section 4.4), the Registrar may impose a charge upon the owner sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Outstanding Bank Bonds. In case the Outstanding Bank Bonds shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Outstanding Bank Bond of the same series and like principal amount, number, interest rate and maturity in exchange and substitution for and upon cancellation of any such mutilated Outstanding Bank Bond or in lieu of and in substitution for any such Outstanding Bank Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of an Outstanding Bank Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Outstanding Bank Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. An Outstanding Bank Bond so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Outstanding Bank Bond has already matured or such Outstanding Bank Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Outstanding Bank Bond prior to payment.

Section 4.3. Initial Registrar. The City has appointed U.S. Bank National Association as the Registrar for the Outstanding Bank Bonds. The City reserves the right to appoint a successor Registrar, and the City agrees to pay the reasonable and customary charges of the Registrar for the services performed. Upon merger or consolidation of a bank or trust company that is acting as the Registrar, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar, as the case may be. The City reserves the right to remove any Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Outstanding Bank Bonds in its possession as Registrar to the successor Registrar and shall deliver the Bond Register to the successor Registrar.

#### Section 4.4. Redemption

(a) Optional Redemption of Outstanding Bank Bonds. The Outstanding Bank Bonds shall be subject to redemption at the option of the City, at any time and from time to time, in whole or in part, and if in part then in inverse order of principal installments, at a price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date, without premium. Such optional redemption payments shall reduce the principal installments in inverse order thereof.

(b) Notice of Redemption. The Redemption Date and the principal amount of the Outstanding Bank Bonds to be redeemed shall be fixed by the City who shall give notice thereof to the Registrar at least 45 days prior to the Redemption Date or such lesser period as the Registrar accepts. The Registrar, at least 30 days prior to the designated Redemption Date, shall cause notice of redemption to be mailed, by first class mail to the

owner of each Outstanding Bank Bond to be redeemed at its address as it appears on the Bond Register, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of the Outstanding Bank Bonds not affected by such defect or failure. The notice of redemption shall specify the Redemption Date, Redemption Price, and the place at which the Outstanding Bank Bonds are to be surrendered for payment, which is the principal corporate trust office of the Registrar. Official notice of redemption having been given as aforesaid, the Outstanding Bank Bonds or portion thereof so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the City shall default in the payment of the Redemption Price) such Outstanding Bank Bonds or portion thereof shall cease to bear interest.

Section 4.5. Execution and Delivery of Outstanding Bank Bonds. Each of the Outstanding Bank Bonds was executed on behalf of the City by the manual or facsimile signatures of the Mayor and City Clerk and was delivered to FSB.

#### ARTICLE V ADDITIONAL BONDS AND SUBORDINATE OBLIGATIONS

Section 5.1. General Provisions. Additional Bonds may at any time and from time to time be issued, sold and delivered by the City but only upon compliance with the conditions of Sections 5.2 and 5.3, whichever may be applicable, and upon filing with the City Finance Director the following:

(i) A Supplemental Resolution authorizing the issuance of such series of Additional Bonds and fixing the amount and the details thereof and the sale thereof to the purchaser or purchasers named therein for the purchase price set forth therein.

(ii) A certificate executed by the Mayor and the City Finance Director stating that upon the issuance of such series of Additional Bonds, no default hereunder has occurred and is continuing which would not be cured upon the issuance of such series of Additional Bonds and application of the proceeds thereof.

(iii) An opinion of Bond Counsel (who may rely on factual representations of the City and which opinion may be qualified by customary qualifications and exceptions) stating that:

(i) all conditions precedent provided for in this Resolution relating to the issuance and delivery of such series of Additional Bonds have been complied with, including any conditions precedent specified in this Section 5.1; and

(ii) the series of Additional Bonds when issued and delivered by the City will be valid and binding special, limited obligations of the City in accordance with their terms and entitled to the benefits of and secured by this Resolution.

Any Additional Bonds shall be dated, shall bear interest at a rate or rates, shall have Stated Maturities and may be subject to redemption at such times and prices and on such terms and conditions, all as may be provided by the Supplemental Resolution authorizing their issuance. All Additional Bonds issued pursuant to Sections 5.2 and 5.3 shall be payable and secured ratably and equally and on a parity as to both principal and interest with the Outstanding SRF Bonds, Outstanding Bank Bonds and any Additional Bonds theretofore issued, entitled to the same benefits and security of this Resolution.

Section 5.2. Additional Bonds to Pay Costs of Projects. Additional Bonds may be issued under this Section 5.2, at one time or from time to time, subject to the conditions provided in Section 5.1 and this Section 5.2, for the purpose of providing funds, with any other funds available and committed therefor, for paying the cost of one or more Projects and any expenses in connection with such financing.

Prior to the execution and delivery of any series of Additional Bonds under this Section 5.2, there shall be filed with the City Clerk a certificate executed by the Mayor and the City Finance Director stating that the Net Revenues of the System for the last complete Fiscal Year preceding the date of issuance of such Additional Bonds equaled at least 125% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent Fiscal Year during the term of the Outstanding Bonds, on all Bonds then Outstanding and on the Additional Bonds proposed to be issued.

For the purpose of the foregoing computation, the Net Revenues for the Fiscal Year preceding the issuance of Additional Bonds shall be those shown by the financial reports caused to be prepared by the City pursuant to this Resolution, except that if the rates and charges for services provided by the System have been changed since the beginning of such preceding Fiscal Year, then the rates and charges in effect at the time of issuance of the Additional Bonds or finally authorized to go into effect within 60 days thereafter shall be applied to the quantities of service actually rendered and made available during such preceding Fiscal Year to ascertain the Gross Revenues, from which there shall be deducted to determine the Net Revenues, the actual operation and maintenance cost plus any additional annual costs of operation and maintenance which the Consultant estimates will be incurred because of the improvement or extension of the System to be constructed from the proceeds of the Additional Bonds proposed to be issued.

In no event shall any Additional Bonds be issued and made payable from the Revenue Bond Account if the City is then in default in any payment of principal of or interest on any Outstanding Bonds payable therefrom or if there then exists any deficiency in the balances required by this Resolution to be maintained in any of the accounts of the Sewer System Fund, which will not be cured or restored upon the issuance of the Additional Bonds. In connection with the issuance of a series of Additional Bonds, the City shall cause amounts in the Reserve Account to be increased, from the proceeds of the Additional Bonds, from Surplus Net Revenues and/or from Surety Bonds, to an amount equal to the Reserve Requirement during the term of the Outstanding Bonds.

Section 5.3. Additional Bonds for Refunding Purposes. Additional Bonds may be issued under this Section 5.3, at one time or from time to time, subject to the conditions provided in Section 5.1 and this Section 5.3, for the purpose of providing funds, with any other funds

available and committed therefor, for paying at, or redeeming prior to, their Stated Maturities any Outstanding Bonds, including the payment of any redemption premium thereon and interest which will accrue on such Bonds to any Redemption Date or the Stated Maturities thereof, and any expenses in connection with such financing. Such Additional Bonds shall be designated substantially as the Bonds to be refunded, with the addition of the term “refunding”.

Prior to the execution and delivery of any series of Additional Bonds under this Section 5.3, there shall be filed with the City Clerk:

(i) such documents as shall be required to show that provisions have been duly made in accordance with this Resolution for the redemption of all of the Bonds to be refunded; and

(ii) a certificate executed by the Mayor and the City Finance Director or a report of an Accountant to the effect that (a) the proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any moneys to be withdrawn from the Revenue Bond Account and Reserve Account for such purpose, together with any other funds deposited for such purpose, will be not less than an amount sufficient to pay the redemption price on the Bonds to be refunded, or (b) from such proceeds there shall be deposited in trust, Government Obligations which do not permit the redemption thereof at the option of the issuer, the principal of and the interest on which when due and payable (or redeemable at the option of the holder thereof) will provide, together with any other moneys which shall have been deposited in trust irrevocably for such purpose, but without reinvestment, sufficient moneys to pay such principal, redemption premium and interest.

If Additional Bonds are issued to refund Subordinate Obligations issued pursuant to Section 5.4, the conditions for the issuance of Additional Bonds pursuant to Section 5.2 must be satisfied in lieu of this Section 5.3.

Section 5.4. Subordinate Obligations. Nothing in this Resolution shall preclude the City from issuing additional obligations which are expressly made a charge on only the Surplus Net Revenues of the System subordinate to the pledge of Net Revenues to the Revenue Bond and the Reserve Account and payable only from amounts in the Subordinate Obligations Account, subject to the prior claims of the Operating Account, Revenue Bond Account, Reserve Account and Note Account (such additional obligations, the “Subordinate Obligations”).

Section 5.5. Notes. The City may from time to time issue Notes in anticipation of the issuance of Additional Bonds subject to the following conditions:

(a) The Additional Bonds in anticipation of which the Notes are issued, assuming a maximum rate of interest on such Bonds, shall be authorized to be issued under Section 5.2,

(b) The payment of principal and interest on the Notes from Net Revenues shall be subordinated to Outstanding Bonds and the principal of the Notes shall be payable solely from the proceeds of the Additional Bonds and other amounts then on hand in the Note Account, unless the City is unable to sell the Additional Bonds, in which case the Notes shall be



exchanged for the Additional Bonds on a par-for-par basis bearing interest at the maximum rates assumed under subsection (a) of this Section 5.5, and

(c) The Notes shall have a Stated Maturity within 3 years from their date of issuance or such later Stated Maturity as may then be permitted under State law.

## ARTICLE VI

### SEWER SYSTEM FUND

Section 6.1. Bond Proceeds and Revenues Pledged and Appropriated. A special Sewer System Fund is hereby created and shall be maintained as a separate and special bookkeeping account on the official books of the City until all Bonds and interest and redemption premiums due thereon have been fully paid, or the City's obligations with reference to such Bonds have been discharged as provided in this Resolution. All proceeds of Bonds issued hereunder and all other funds presently on hand derived from the operation of the System are irrevocably pledged and appropriated to the Sewer System Fund. In addition, there is hereby irrevocably pledged and appropriated to the Sewer System Fund all Gross Revenues. The Sewer System Fund shall be subdivided into separate accounts as designated and described in Sections 6.2 through 6.10, to segregate income and expenses received, paid and accrued for the respective purposes described in those sections. The Gross Revenues received in the Sewer System Fund shall be apportioned semiannually, or, if the City commences monthly sewer billing, the Gross Revenues shall be apportioned monthly.

Section 6.2. Acquisition and Construction Account. The City shall maintain an Acquisition and Construction Account in the Sewer System Fund. The Acquisition and Construction Account shall be used only to pay as incurred and allowed costs which under generally accepted accounting principles are capital costs of a Project and of such future constructions, improvements, betterments or extensions of the System as may be authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the acquisition, construction and financing of any such undertaking, including costs of issuance. To the Acquisition and Construction Account shall be credited as received all proceeds of Bonds issued hereunder (except proceeds of refunding Bonds appropriated to the payment of Outstanding Bonds and amounts required to be credited to the Revenue Bond Account or the Reserve Account), all other funds appropriated by the City for the System and any other funds appropriated by the City to the Acquisition and Construction Account for improvements to the System. Upon completion of a capital improvement or program of capital improvements for the System, the balance remaining in the Acquisition and Construction Account shall be credited to the Revenue Bond Account to the extent required to establish the required balance therein or as required by the Code and, to the extent not so required, to the Replacement and Depreciation Account.

Section 6.3. Operating Account. The City shall maintain an Operating Account in the Sewer System Fund. On each apportionment there shall first be set aside and credited to the

Operating Account, as a first charge on the Gross Revenues, such amount as may be required over and above the balance then held in the account to pay the reasonable and necessary Operating Expenses of the System which are then due and payable, or are to be paid prior to the next apportionment. There shall also be credited to this account amounts to establish an Operating Reserve. So long as the City bills semiannually, the Operating Reserve shall be equal to the estimated Operating Expenses of the System over a 60 day period. If the City commences monthly sewer billing, the Operating Reserve shall be equal to the estimated Operating Expenses of the System over a 30 day period. The Operating Reserve shall be maintained by additional transfers upon each apportionment whenever necessary, or may be augmented by transfers of additional amounts from the Replacement and Depreciation Account and the Surplus Account if determined by the governing body of the City to be necessary to meet contingencies arising in the operation and maintenance of the System. Money in the Operating Account shall be used solely for the payment of current Operating Expenses of the System.

Section 6.4. Revenue Bond Account. The City shall maintain a Revenue Bond Account in the Sewer System Fund. Upon each semiannual apportionment there shall be set aside and credited to the Revenue Bond Account out of the Net Revenues an amount equal to not less than all interest to become due within the next six months and one-half of the principal to become due within the next twelve months with respect to Outstanding Bonds payable semiannually from the Revenue Bond Account. If the City commences monthly billing, upon each monthly apportionment there shall be set aside and credited to the Revenue Bond Account out of the Net Revenues an amount equal to not less than one-sixth of the interest to become due within the next six months and one-twelfth of the principal to become due within the next twelve months with respect to Outstanding Bonds payable semiannually from the Revenue Bond Account. In either case, the City shall be entitled to reduce any credit by the amount of any surplus previously credited and then on deposit in the Revenue Bond Account. Money from time to time held in the Revenue Bond Account shall be disbursed only to meet payments of principal of, premium, if any, and interest on the Bonds payable therefrom as such payments become due. If any payment of principal or interest becomes due when moneys in the Revenue Bond Account are temporarily insufficient therefor, such payment shall be advanced out of any Net Revenues theretofore segregated and then on hand in the Reserve Account, the Replacement and Depreciation Account and the Surplus Account.

Section 6.5. Reserve Account. The City shall maintain a Reserve Account in the Sewer System Fund.

(a) Upon each apportionment, from the Net Revenues remaining after the apportionment to the Revenue Bond Account, the City shall credit to the Reserve Account such Net Revenues as may be required to establish and thereafter maintain the balance in an amount equal, as of the date of calculation, to the Reserve Requirement. Money in the Reserve Account shall be used only to pay maturing principal and interest on Outstanding Bonds when money within the Revenue Bond Account is insufficient therefor; provided that on any date when the balance then on hand in the Revenue Bond Account allocable to a series of Bonds, plus the balance then on hand in the Reserve Account allocable to the series of Bonds (exclusive of any Surety Bond), is sufficient with other money available to pay or discharge all Outstanding Bonds of that series and the interest accrued thereon in full, and the balance thereafter on hand in the Reserve

Account will be at least equal to the Reserve Requirement for all Outstanding Bonds and not to be discharged, it may be used for that purpose. If the balance in the Reserve Account is more than required, the excess shall be transferred to the Revenue Bond Account or, if permissible under the Code, to the Replacement and Depreciation Account.

(b) The City may elect to satisfy in whole or in part the Reserve Requirement with a Surety Bond. Any Surety Bond shall be valued at the amount available to be drawn thereon. At any time the Reserve Account contains both cash and a Surety Bond, the cash shall be used first to pay principal and interest due on the Bonds, to the extent money in the Revenue Bond Account is insufficient therefor, before any demand is made on the Surety Bond. In the event the Reserve Account contains more than one Surety Bond, any draw on the Surety Bonds to pay principal and interest on the Bonds shall be made on a pro rata basis.

If the balance in the Reserve Account is less than the Reserve Requirement, Net Revenues transferred to the Reserve Account shall be used first to reimburse the issuer of a Surety Bond pro rata based on the amounts drawn thereon (thereby remarketing the Surety Bond), second to replenish the cash in the Reserve Account such that the cash plus the amounts available to be drawn on any Surety Bond are equal to the Reserve Requirement, and third to pay the issuer of a Surety Bond for interest due on any amounts advanced under a Surety Bond. In the event the Reserve Account contains more than one Surety Bond, any reimbursement to the issuer of a Surety Bond shall be pro rata based on the amounts drawn thereon.

If funds are required to be drawn on a Surety Bond to pay principal or interest due on Bonds, the City shall deliver to the issuer of the Surety Bond a demand for payment under the terms of the applicable Surety Bond at least three days prior to the date on which funds are required to make such payment, and the City shall maintain adequate records, verified with the issuer of the Surety Bond, as to the amount available to be drawn at any given time under the Surety Bond and as to amounts paid and owing to the issuer thereof under the terms of the Surety Bond.

Section 6.6. Replacement and Depreciation Account. The City shall maintain a Replacement and Depreciation Account in the Sewer System Fund. Upon each apportionment, there shall next be set aside and credited to the Replacement and Depreciation Account, Surplus Net Revenues required for the accumulation of a reasonable allowance as the governing body of the City shall determine for depreciation of the System and for replacement or renewal of worn out, obsolete or damaged properties and equipment. Money in the Replacement and Depreciation Account shall be used only for the purposes above stated or, if so directed by the governing body of the City, to redeem Bonds which are prepayable according to their terms, to pay maturing principal, premium and interest when money within the Revenue Bond Account is insufficient therefor, to fund any deficiency in the Reserve Account, or to pay the cost of improvements to the System; provided that Surplus Net Revenues in the Replacement and Depreciation Account may be used to pay Subordinate Obligations as they come due in advance of payments required to be made into the Replacement and Depreciation Account subject to the prior lien on Net Revenues to pay any deficiency of the Revenue Bond Account, the Reserve

Account and the Note Account, and provided that no default under this Resolution is then in effect.

Section 6.7. Surplus Account. The City shall maintain a Surplus Account in the Sewer System Fund. Any amount of the Surplus Net Revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account (or such other account in the Sewer System Fund as the City may establish for bookkeeping purposes to account for Surplus Net Revenues in accordance with the purposes of this Resolution), and the money from time to time in that account, when not required to restore a current deficiency in the Operating Account, the Revenue Bond Account, the Reserve Account, the Note Account, the Replacement and Depreciation Account or the Subordinate Obligations Account, may be used for any of the following purposes and not otherwise:

- (a) To redeem Bonds when and as such Bonds become prepayable according to their terms; or
- (b) To purchase Bonds on the open market, whether or not the Bonds may then be prepayable according to their terms; or
- (c) To be held as a reserve for redemption of Bonds which are not then but will later be prepayable according to their terms; or
- (d) To be transferred to the Acquisition and Construction Account to pay costs authorized to be paid therefrom; or
- (e) To pay for repairs of or for the construction and installation of improvements or additions to the System; or
- (f) To pay Operating Expenses or to restore the Operating Reserve or increase the same when determined to be necessary by the governing body of the City; or
- (g) To pay Subordinate Obligations issued under Section 5.4; or
- (h) To make payments of arbitrage rebate to the United States of America pursuant to Section 148(f) of the Code in respect of any series of Bonds.

No money shall at any time be transferred from the Surplus Account or any other account of the Sewer System Fund to any other fund of the City, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvement bonds or other obligations payable from other funds, except as provided in Section 6.11.

Section 6.8. Subordinate Obligations Account. The City shall maintain a Subordinate Obligations Account in the Sewer System Fund. If a Subordinate Obligation is outstanding, all Surplus Net Revenues remaining after the required credits to the Replacement and Depreciation Account shall be credited to the Subordinate Obligations Account. The City irrevocably appropriates to the Subordinate Obligations Account: (a) the proceeds of any Bonds issued to refund one or more Subordinate Obligations, as received and to the extent necessary for the

payment of such Subordinate Obligations, and (b) such other money as shall be appropriated to the Subordinate Obligations Account from time to time.

Amounts on deposit in the Subordinate Obligations Account shall be used solely to pay the principal of and interest on Subordinate Obligations made payable therefrom; provided that if on any date the balance in the Revenue Bond Account, the Reserve Account or the Note Account is less than then required, an amount equal to such deficiency will be transferred from the Subordinate Obligations Account. Upon payment or discharge of a Subordinate Obligation and upon the making of the credits to the Subordinate Obligations Account required in connection with any other Subordinate Obligations made payable therefrom, all surplus funds therein shall be transferred to the Surplus Account.

Section 6.9. Note Account. The City shall maintain a Note Account in the Sewer System Fund. If a Note is Outstanding, all Net Revenues remaining after the required credits to the Revenue Bond Account and the Reserve Account pursuant to this Resolution shall be credited to the Note Account to the extent required to pay an Outstanding Note or otherwise necessary to cure a deficiency therein, subject to the prior lien of the Revenue Bond Account and the Reserve Account.

Section 6.10. Rebate Account. The City shall maintain a Rebate Account in the Sewer System Fund. The City shall make deposits to and disbursements from the Rebate Account pursuant to one or more rebate certificates executed and delivered by the City in connection with the issuance of Bonds, and for such purposes may make transfers, in the following order of priority, from the Surplus Account and the Replacement and Depreciation Account, as necessary, to meet the requirements of the Rebate Account. The City shall invest the Rebate Account in accordance with the provisions of the rebate certificates and shall deposit income from such investments immediately upon receipt thereof in the Rebate Account.

Section 6.11. Deposit and Investment of Funds. The City Finance Director shall cause all money appropriated to the Sewer System Fund to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of Montana Code Annotated, Section 7-6-201, in a deposit account or accounts. The balance in such accounts, except such portion thereof as shall be guaranteed by federal deposit insurance, shall at all times be secured to its full amount by bonds or securities of the types set forth in said Section 7-6-201. Any of such moneys not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Sewer System Fund as defined and authorized in this Resolution; except that money from time to time on hand in the Sewer System Fund may at any time, in the discretion of the governing body of the City, be invested in securities which are direct, general obligations of, or obligations the prompt payment of the principal of and the interest on which is fully and unconditionally guaranteed by, the United States of America, bank repurchase agreements with respect to such obligations, certificates of deposits of national banks having a combined capital and surplus of at least \$1,000,000 or in the State short-term investment program administered by the Board of Investments, which investments mature and bear interest at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts; provided that funds on hand in the Reserve Account, the Replacement and Depreciation Account and the Surplus Account may be invested in said

securities maturing not later than five years from the date of the investment; and provided, further, that money on hand in the Surplus Account may, in the discretion of the governing body of the City, be invested in any securities which are direct, general obligations of the City. Income received from the deposit or investment of moneys in said accounts shall be credited to the account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other moneys in that account.

## ARTICLE VII

### AGREEMENTS OF CITY

Section 7.1. Maintenance of System; Liens. The City shall maintain the System in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The City shall not grant or permit to exist any lien on the Projects or any other property making up part of the System, other than liens herein provided for; provided that this Section 7.1 shall not be deemed to be violated if a mechanic's or contractor's lien is filed against any such property so long as the City uses its best efforts to obtain the discharge of such lien and promptly reports to the DNRC the filing of such lien and the steps it plans to take and does take to discharge such lien.

Section 7.2. Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The City shall maintain its corporate existence, except that it may consolidate with or merge into another Governmental Unit or permit one or more Governmental Units to consolidate with or merge into it or may transfer all or substantially all of its assets to another Governmental Unit and then dissolve if the surviving, resulting or transferee entity (if other than the City) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the City under this Resolution, the Outstanding Bonds and the Collateral Documents, and (a) such action does not result in any default in the performance or observance of any of the terms, covenants or agreements of the City under this Resolution, the Outstanding Bonds and the Collateral Documents, (b) such action does not violate the State Act or the Clean Water Act and does not adversely affect the exclusion of interest on State Bonds from gross income for federal income tax purposes, and (c) the City delivers to the Holders on the date of such action an opinion of Bond Counsel that such action complies with this Section 7.2. Other than pursuant to the preceding sentence, the City shall not transfer the System or any portion thereof to any other Person, except for property which is obsolete, outmoded, worn out, is being replaced or otherwise is not needed for the operation of the System.

Section 7.3. Competing Service. The City will not establish or authorize the establishment of any other system for the public supply of service or services in competition with any or all of the services supplied by the facilities of the System.

Section 7.4. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the System to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of the State, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain insurance, it will obtain insurance in such amounts and against

risks as are reasonably obtainable. The proceeds of all such insurance shall be available for the repair, replacement or reconstruction of damaged or destroyed property, and until paid out in making good such loss or damage, are pledged as security for the Outstanding Bonds. All insurance proceeds received in excess of the amount required for restoration of the loss or damage compensated thereby shall be and become part of the revenues appropriated to the Sewer System Fund. If for any reason insurance proceeds are insufficient for the repair, replacement and reconstruction of the insured property, the City shall supply the deficiency from revenues on hand in the Replacement and Depreciation Account and the Surplus Account.

Section 7.5. Books and Records. The City 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 Net Revenues derived from its operation, and the segregation and application of the Net Revenues in accordance with this Resolution, in such reasonable detail as may be determined by the City in accordance with generally accepted accounting practice and principles. It will cause such books to be maintained on the basis of a Fiscal Year.

Section 7.6. The Handling of Funds. The employees of the City, under the direction and control of the City Finance Director, shall keep books of accounts and collect the rates, charges and rentals for the services and facilities provided by the System and for other money currently receivable on account thereof. All money collected with respect to the System shall be deposited as received with the Finance Director. The Finance Director shall be bonded at all times with a surety company authorized to do business in the State, in the amount of at least \$100,000, to assure the faithful carrying out of such duties, which requirement may be satisfied by a blanket bond covering other City employees as well as the Finance Director.

Section 7.7. Billing and Collections. The charges for sewer services shall be made and collected on an annual basis, to be billed semiannually (or, upon the request of commercial and certain other large accounts, quarterly) in advance. If a sewer customer does not pay its sewer bill within 60 days of the date of billing, notice to the owner of such lot or parcel of real estate shall be provided by the City in writing stating the amount of the assessment owing and in arrears, including any penalty and interest assessed. If such amount is not paid within 30 days of the notice, the sewer service to the premises involved shall be discontinued (provided that the City is not obligated to physically disconnect the premises from the System) and the City shall take appropriate legal action to collect the unpaid charges.

Section 7.8. Rate Covenant. While any Bonds are Outstanding and unpaid, the rates, charges and rentals for all services and facilities furnished and made available by the System to the City and its inhabitants, and to all customers within or without the boundaries of the City, shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining and operating it, and the amounts necessary for the payment of all Outstanding Bonds and the interest accruing thereon and all Subordinate Obligations and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System. No free service shall be provided to any third parties. It is covenanted and agreed that the rates, charges and rentals to be charged to all recipients of sewer services shall be maintained and shall be revised whenever and as often as may be necessary, according to schedules such that the Gross Revenues for each Fiscal Year shall be sufficient to pay the Operating Expenses and to

maintain the Operating Reserve, to produce Net Revenues during each Fiscal Year, commencing with the Fiscal Year ending June 30, 2020, not less than 125% of the maximum annual principal and interest payable on the Outstanding Bonds in the current or any future Fiscal Year and to maintain the balance in the Reserve Account equal to the Reserve Requirement (including all amounts then owing to the issuer of a Surety Bond), and to produce Surplus Net Revenues during each Fiscal Year sufficient to pay principal and interest on any Subordinate Obligations and to provide reserves for the replacement and depreciation of the System.

If at the close of any Fiscal Year the Gross Revenues and Net Revenues actually received during such year have been less than required hereby, the City will forthwith prepare a schedule of altered rates, charges and rentals which are just and equitable and sufficient to produce Gross Revenues and Net Revenues in such amounts, and place such schedule in operation at the earliest possible date.

Section 7.9. Representations and Covenants of the City to the DNRC and DEQ. In the Prior Resolution, the City made certain representations and covenants to the DNRC and DEQ with respect to the Outstanding SRF Bonds, the Prior Loans and the Prior SRF Projects in order to comply with Program requirements, which representations and covenants are set forth in Appendix B hereto. The City hereby ratifies and confirms such representations and covenants to the DNRC and DEQ. For the avoidance of doubt, the representations and covenants set forth in Appendix C hereto are solely for the benefit of the DNRC and DEQ and other Holders are not third party beneficiaries of such representations and covenants and are not entitled to rely upon them.

## ARTICLE VIII

### SUPPLEMENTAL RESOLUTIONS

Section 8.1. General. Notwithstanding Section 8.2, the City reserves the right to adopt Supplemental Resolutions from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with this Resolution, and which shall not adversely affect the interests of the Holders of Outstanding Bonds, or for the purpose of adding to the covenants and agreements herein contained, or to the revenues herein pledged, other covenants and agreements thereafter to be observed and additional revenues or income thereafter appropriated to the Sewer System Fund, or for the purpose of surrendering any right or power herein reserved to or conferred upon the City, or for the purpose of authorizing the creation and issuance of a series of Additional Bonds or Subordinate Obligations, as provided in and subject to the conditions and requirements of Article V. Any such Supplemental Resolution may be adopted pursuant to this Section 8.1 without notice to or the consent of the Holder of any of the Bonds issued hereunder.

Section 8.2. Consent of Holders. With the consent of the Holders of at least two-thirds in principal amount of the Outstanding Bonds affected thereby and, if SRF Bonds are Outstanding, the written consent of the DNRC, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending this Resolution by adding any



provisions hereto or changing in any manner or eliminating any of the provisions hereof or of any Supplemental Resolution, except that no Supplemental Resolution shall be adopted at any time without the consent of the Holders of all Outstanding Bonds affected thereby, if it would extend the time of payment of interest thereon or principal thereof, would reduce the interest rate thereon or the amount of the principal or the redemption price thereof, would give to any Bond or Bonds any privileges over any other Bond or Bonds, would reduce the sources of revenues or income appropriated to the Sewer System Fund, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution.

Section 8.3. Notice. Notice of the Supplemental Resolution to be adopted pursuant to Section 8.2 shall be mailed by first-class mail to the Holders of all outstanding Bonds at their addresses appearing in the Bond Register or given by such other means as then required by the securities depository, and shall become effective only upon the filing of written consents with the City Finance Director, signed by the Holders of the requisite principal amount of the Outstanding Bonds affected thereby. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Holders in person or by agent duly appointed in writing, and shall become effective when delivered to the City Finance Director. Any consent by the Holder of any Bond shall bind him and every future Holder of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent; provided that any Holder may revoke his consent with reference to any Bond by written notice received by the City Finance Director before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Holders of the required amount of Bonds have not been received by the City Finance Director within one year after the mailing of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

Section 8.4. Manner of Consent. Proof of the execution of any consent, or of a writing appointing any agent to execute the same, or of the ownership by any Person of Bonds shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City if made in the manner provided in this Section 8.4. The fact and date of the execution by any Person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by the certification of any notary public or other officer authorized by law to take acknowledgment of deeds, certifying that the Person signing it acknowledged to him the execution thereof. The fact and date of execution of any such consent may also be proved in any other manner which the City may deem sufficient; but the City may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. The ownership of Bonds shall be proved by the Bond Register.

## ARTICLE IX

### REMEDIES

No Holder of any Bond shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, without the written concurrence of the Holders of not less than 25% in aggregate principal amount of all such Bonds which are at the time Outstanding; but the Holders of such amount of Bonds may, either at law

or in equity, by suit, action or other proceedings, protect and enforce the rights of all Holders of Bonds and compel the performance of any and all of the covenants required herein to be performed by the City and its officers and employees, including but not limited to the fixing and maintaining of rates, fees and charges and the collection and proper segregation of the Gross Revenues and the application and use thereof. The Holders of a majority in principal amount of Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Holders or the exercise of any power conferred on them and the right to waive a default in the performance of any such covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. Nothing herein, however, shall impair the absolute and unconditional right of the Holder of each Bond to receive payment of the principal of, premium, if any, and interest on such Bond as such principal, premium and interest respectively become due, and to institute suit for any such payment. Any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City with power to charge and collect rates, fees and charges sufficient to provide for the payment of any Bonds, and to apply the Net Revenues in conformity with this Resolution and the laws of the State.

## ARTICLE X

### DEFEASANCE

Section 10.1. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this Article X, all pledges, covenants and other rights granted by this Resolution to the Holders of such Bonds shall cease, other than to the payment of such Bonds from money segregated for such purpose. The City may also discharge its liability with respect to one or more Bonds in accordance with this Article X.

Section 10.2. Maturity. The City may discharge its liability with reference to any Bonds and interest thereon which are due on any date by depositing with the Registrar for such Bonds on or before the date a sum sufficient for the payment thereof in full; or if any Obligation or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

Section 10.3. Prepayment. The City may also discharge its obligations with respect to any prepayable Bonds called for redemption on any date when they are prepayable according to their terms, by depositing with the Registrar therefor on or before the Redemption Date a sum sufficient for the payment thereof in full; provided that notice of the redemption thereof has been duly given as provided in this Resolution or any Supplemental Resolution relating thereto.

Section 10.4. Escrow. The City may at any time discharge its liability with reference to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action and this Section 10.4, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or Government Obligations authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, interest

and redemption premiums, if any, to become due on such Bonds at their Stated Maturities or, if such Bonds are prepayable and notice of redemption thereof has been duly given or irrevocably provided for, to such earlier Redemption Date.

## ARTICLE XI MISCELLANEOUS

Section 11.1. 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 11.2. Applicable Law. This Resolution shall be governed by and construed in accordance with the laws of the State without giving effect to the conflicts-of-laws principles thereof.

Section 11.3. No Liability of Individual Officers, Directors or Council Members. No recourse under or upon any obligation, covenant or agreement contained in this Resolution shall be had against any director, officer or employee, as such, past, present or future, of the DNRC, the DEQ or the Trustee, either directly or through the DNRC, the DEQ or the Trustee, or against any officer, or member of the governing body or employee of the City, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer or member of the governing body or employee of the DNRC, the Trustee or the City is hereby expressly waived and released by the City and by the DNRC as a condition of and in consideration for the adoption of this Resolution and the making of the Prior Loans.

Section 11.4. Payments Due on Holidays. If the date for making any payment or the last date for performance of any act or the exercise of any right, as provided in this Resolution or the Bonds, shall not be Business Day, such payments may be made or act performed or right exercised on the next succeeding Business Day with the same force and effect as if done on the nominal date provided in this Resolution or the Bonds.

## ARTICLE XII

### REPEALS AND EFFECTIVENESS

Section 12.1. Repeal. All provisions of other resolutions and other actions and proceedings of the City and this Council that are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

Section 12.2. Effectiveness. If the City's Series 2010 Bonds and Series 2011 Bonds are not defeased and refunded within 60 days of the date hereof, the Prior Resolution shall remain in effect and this Resolution shall be repealed and shall be of no further effect.

PASSED AND ADOPTED by the City Council of the City of Missoula, Montana on this 22nd day of June, 2020.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

## APPENDIX A

### DESCRIPTION OF THE PROJECTS FINANCED WITH OUTSTANDING SRF BONDS AND OUTSTANDING BANK BONDS

Prior SRF Projects financed with proceeds of Outstanding SRF Bonds as follows:

- Series 2000B Bond— improvements consisting of installation of a gravity sewer system in the East Reserve Street area (Phase II) and the Pineview Subdivision area and related improvements.
- Series 2001A Bond— improvements consisting of construction of approximately 5,000 LF of sewer force main, pavement replacement, landscape repair and miscellaneous related work.
- Series 2002A Bond— improvements consisting of construction of a septic tank effluent pump and gravity sewer lines and appurtenances on 39th Avenue from Brooks Street to Russell Street and related improvements.
- Series 2002B Bond— improvements consisting of the first phase of improving and expanding the existing wastewater treatment facility of the City and related improvements.
- Series 2003 Bond— improvements consisting of the second phase of improving and expanding the existing wastewater treatment facility of the City and related improvements.
- Series 2004 Bond— improvements consisting of the third phase of improving and expanding the existing wastewater treatment facility of the City and related improvements.
- Series 2005 Bond— improvements consisting of relocating and increasing the size of the Broadway interceptor, and design, engineering, construction, and installation of a 30-inch interceptor for Broadway, realignment of existing sewer connections along the Birch/Mullan Road/Broadway intersection; sanitary sewer improvements for the properties included in Special Improvement District No. 533; and sanitary sewer improvements for the properties included in Special Improvement District No. 534.
- Series 2009B Bond— improvements consisting of providing sewer service to approximately 313 un-sewered properties within the City, including installing approximately 22,000 linear feet of sewer main, as well as related costs.
- Series 2015 Bond— improvements to the City's sewer system, the installation of a dewatering screw press and related improvements.

Projects financed with proceeds of Outstanding Bank Bonds as follows:

- Series 2016A Bond— acquisition of assets and site improvements at EKO Compost facility and related improvements.
- Series 2016B Bond— acquisition of additional assets necessary or appropriate for continued operation of EKO Compost facility

## APPENDIX B

### ARTICLE I

#### REPRESENTATIONS AND COVENANTS OF CITY WITH RESPECT TO OUTSTANDING SRF BONDS AND PRIOR LOANS

Section 1.1. Representations and Warranties. The City represents and warrants to the DNRC as of the date issuance of each Outstanding SRF Bond and as of the date hereof as follows:

(a) Organization and Authority. The City:

(i) is duly organized and validly existing as a municipal corporation and 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, to issue the Outstanding SRF Bonds and to enter into the Collateral Documents and to carry out and consummate all transactions contemplated by this Resolution, the Outstanding SRF Bonds 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 Outstanding SRF Bonds and the Collateral Documents and the incurrence of the debt evidenced by the Outstanding SRF Bonds.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the City threatened, against or affecting the City 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 City, or the ability of the City to make all payments and otherwise perform its obligations under this Resolution, the Outstanding SRF Bonds and the Collateral Documents, or the financial condition of the City, or the transactions contemplated by this Resolution, the Outstanding SRF Bonds and the Collateral Documents or the validity and enforceability of this Resolution, the Outstanding SRF Bonds and the Collateral Documents. No referendum petition has been filed with respect to any resolution or other action of the City relating to the Prior SRF Projects, the Outstanding SRF Bonds or any Collateral Documents and the period for filing any such petition will have expired before issuance of the Outstanding SRF Bonds.

(c) Borrowing Legal and Authorized. The adoption of this Resolution, the execution and delivery of the Outstanding SRF Bonds and the Collateral Documents and the consummation of the transactions provided for in this Resolution, the Outstanding

SRF Bonds and the Collateral Documents and compliance by the City with the provisions of this Resolution, the Outstanding SRF Bonds and the Collateral Documents:

(i) are within the powers of the City and have been duly authorized by all necessary action on the part of the City; 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 City pursuant to any resolution, indenture, loan agreement or other agreement or instrument (other than this Resolution and any Collateral Documents) to which the City is a party or by which the City or its property may be bound, nor will such action result in any violation of the provisions of the charter or similar document, if applicable, of the City or any laws, ordinances, governmental rules or regulations or court or other governmental orders to which the City, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that constitutes a default under this Resolution or the Collateral Documents. The City 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 City with the terms hereof or of the Outstanding SRF Bonds and the Collateral Documents.

(e) Governmental Consent. The City 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 City of its obligations under this Resolution, the Outstanding SRF Bonds and the Collateral Documents or with respect to the Prior SRF Projects, the financing or refinancing thereof or the reimbursement of the City 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 City as a condition to adopting this Resolution, issuing the Outstanding SRF Bonds or entering into the Collateral Documents and the performance of the City's obligations hereunder and thereunder.

(f) Binding Obligation. This Resolution, the Outstanding SRF Bonds and the Collateral Documents are the valid and binding special, limited obligations of the City, enforceable against the City 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 Prior SRF Projects. The Prior SRF Projects consist of the facilities, improvements and activities described in the Appendix A preceding this Appendix B.

The City has complied with all covenants and agreements contained in the Prior Resolution as then in effect with respect to each Prior SRF Project. The Prior SRF Projects comprised facilities of a type that, as determined by the EPA, facilitate compliance with the national water pollution control regulations applicable to the System or will otherwise significantly further the health protection objectives of the Clean Water Act. Construction of the Prior SRF Projects complied with applicable federal and State standards, including, without limitation, EPA regulations and standards. The Prior SRF Projects were projects of the type permitted to be financed under the Act, the State Act, the Program and Title VI of the Clean Water Act.

(h) Full Disclosure. There is no fact that the City has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the City 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 City'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 City's ability to perform its obligations under this Resolution, the Outstanding SRF Bonds and the Collateral Documents and to pledge any revenues or other property pledged to the payment of the Outstanding SRF Bonds.

(i) Compliance With Law. The City:

(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 City to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the City's ability to perform its obligations under this Resolution, the Outstanding SRF Bonds and the Collateral Documents.

Section 1.2. Covenants With Respect to Outstanding SRF Bonds. During the time that any of the Outstanding SRF Bonds remain Outstanding, the City covenants and agrees with the DNRC as follows:

(a) Insurance. The City 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 City 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 City from self-insuring or participating in a self-insurance program in compliance with the provisions of State law. All such insurance policies shall name the DNRC as an additional insured to the extent permissible under such policies. Each policy must provide that it cannot be cancelled by the insurer without giving the City and the DNRC 30 days' prior written notice. The City shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this paragraph (b) 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.

(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 City for the purpose of inspecting the System or any or all books and records of the City relating to the System.

(c) Further Assurance. The City 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 Outstanding SRF Bonds 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 Outstanding SRF Bonds and the Collateral Documents.

(d) Maintenance of Security, if Any; Recordation of Interest.

(i) The City 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 Outstanding SRF Bonds.

(ii) The City shall forthwith, after the execution and delivery of the Outstanding SRF Bonds 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.

(iii) Except to the extent it is exempt therefrom, the City 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) above, 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 Outstanding SRF Bonds and the Collateral Documents and the documents described in subparagraph (ii) above.

(e) Financial Information. The City agrees that for each Fiscal Year it shall furnish to the DNRC and the DEQ, promptly when available:

(i) the preliminary budget for the System, with items for the Prior SRF Projects shown separately; and

(ii) when adopted, the final budget for the System, with items for the Prior SRF Projects shown separately.

The City 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 Gross Revenues derived from its operation, and the segregation and application of the Gross Revenues in accordance with this Resolution, in such reasonable detail as may be determined by the City 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 City. The City shall, within 365 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 report shall be prepared at the direction of the City Finance Director in accordance with applicable generally accepted governmental accounting principles and, in addition to whatever matters may be thought proper by the City Finance Director to be included therein, shall include the following:

(i) A statement or statements showing in detail of the income and expenditures of the System for the Fiscal Year, identifying capital expenditures and separating them from operating expenditures;

(ii) A balance sheet as of the end of the Fiscal Year; and

(iii) The number of premises connected to the System at the end of the Fiscal Year;

(iv) The amount on hand in the Sewer System Fund at the end of the Fiscal Year;

(v) A list of the insurance policies and fidelity bonds in force at the end of the fiscal year, setting out as to each the amount thereof, the risks covered thereby, the name of the insurer or surety and the expiration date of the policy or bond; and

(vi) A determination that the report shows full compliance by the City with the provisions of this Resolution during the Fiscal Year covered thereby, including proper segregation of the capital expenditures from operating expenses, maintenance of the required balance in the Revenue Bond Account and receipt of Net Revenues during each Fiscal Year at least equal to 125% of the maximum amount of principal and interest payable on outstanding Bonds in any subsequent Fiscal Year, or, if the report should reveal that the revenues have been insufficient for compliance with this Resolution, or that the methods used in accounting for such revenues were contrary to any provision of this Resolution, the report shall include a full explanation thereof, together with recommendations for such change in rates or accounting practices or in the operation of the System as may be required.

The City shall also have prepared and supplied to the DNRC and the DEQ, within 365 days of the close of each Fiscal Year, an audit report prepared by an independent certified public accountant or an agency of the state in accordance with generally accepted governmental accounting principles and practice with respect to the financial statements and records of the System. The audit report shall include an analysis of the City's compliance with the provisions of this Resolution.

(f) Project Accounts. The City shall maintain Prior SRF 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 City 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 Title VI of the Clean Water Act, as provided in Section 606(e) of the Clean Water Act.

(h) Compliance with Clean Water Act. The City has complied and shall comply with all conditions and requirements of the Clean Water Act pertaining to the Prior Loans and the Prior SRF Projects.

(i) Program Covenant. The City agrees that neither it nor any "related person" to the City (within the meaning of Section 147(a)(2) of the Code) shall, whether pursuant to a formal or informal arrangement, acquire bonds issued by the State under the Indenture in an amount related to the amount of the Outstanding SRF Bonds.

Section 1.3. Tax-Exempt Status of State Bonds. During the time that any of the Outstanding SRF Bonds remain Outstanding, the City covenants and agrees with the DNRC as follows:

(a) The City will not use or permit to be used any of the proceeds of the Outstanding SRF Bonds or any other funds of the City, directly or indirectly, in a manner that would cause, or take any other action that would cause, any State Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code or would otherwise cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(b) The City agrees that it will not enter into, or allow any “related person” (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the State Bonds or any other obligations of the DNRC in an amount related to the amount of the Prior Loans or the portion of the Prior Loans derived directly or indirectly from proceeds of the State Bonds.

(c) The City shall not use or permit the use of the Prior SRF Projects directly or indirectly in any trade or business carried on by any Person who is not a Governmental Unit. For the purpose of this paragraph (c), use as a member of the general public shall not be taken into account and any activity carried on by a Person other than a natural person shall be treated as a trade or business.

(d) Any portion of a Prior SRF Project financed with proceeds of a Prior Loan was acquired by and is now and shall, during the term of the Outstanding SRF Bond in respect of such Prior SRF Project, be owned by the City and not by any other Person. Notwithstanding the previous sentence, the City may transfer such Prior SRF Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted hereunder and if such organization agrees with the DNRC to comply with Article I of this Appendix B and if the DNRC receives an opinion of Bond Counsel to the effect that such transfer will not violate the State Act or the Clean Water Act or adversely affect the exclusion of interest on the State Bonds from gross income for purposes of federal income taxation. In addition, except as otherwise provided in this Resolution or in any Collateral Documents, the City may sell or otherwise dispose of any portion of a Prior SRF Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the City or beneficial to the general public or necessary to carry out the purposes of the Clean Water Act.

(e) The City shall comply with the arbitrage rebate requirements of Section 148 of the Code (the “Arbitrage Rebate Instructions”), if any, delivered to it by the DNRC at the time of delivery to the DNRC of such Outstanding SRF Bonds. The Arbitrage Rebate Instructions may be amended or replaced by new Arbitrage Rebate Instructions delivered by the DNRC and accompanied by an opinion of Bond Counsel to the effect that the use of said amended or new Arbitrage Rebate Instructions will not adversely affect the excludability of interest on the State Bonds (except State Bonds the interest on which the State did not intend to be excluded from gross income for federal income tax purposes) from gross income of the recipients thereof for federal income tax purposes.

(f) The City agrees that during the term of the Prior Loans it will not contract with or permit any Private Person to manage the Prior SRF Projects or any portion thereof except according to a written management contract and upon delivery to the DNRC of an opinion of Bond Counsel to the effect that the execution and delivery of such management contract will not violate the State Act or the Clean Water Act or adversely affect the exclusion of interest on the State Bonds from gross income or purposes of federal income taxation.

(g) The City shall not lease all or any portion of a Prior SRF Project to any Person other than a nonexempt person which agrees in writing with the City and the State not to cause any default to occur under this Resolution, provided the City may lease all or any portion of a Prior SRF Project to a nonexempt person pursuant to a lease which in the opinion of Bond Counsel delivered to the DNRC will not cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(h) The City shall not change the use or nature of all or any portion of a Prior SRF Project (i) if such change will violate the Clean Water Act, or (ii) so long as the State Bonds are outstanding unless, in the opinion of Bond Counsel delivered to the DNRC, such change will not result in the inclusion in gross income of interest on the State Bonds for federal income tax purposes.

Section 1.4. Indemnification of DNRC and DEQ. The City shall, to the extent permitted by law, indemnify and save harmless the DNRC and the DEQ and their officers, employees and agents (each an “Indemnified Party” or, collectively, the “Indemnified Parties”) against and from any and all claims, damages, demands, expenses, liabilities and losses of every kind asserted by or on behalf of any Person arising out of the acts or omissions of the City or its employees, officers, agents, contractors, subcontractors, or consultants in connection with or with regard or in any way relating to the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation or financing of the Prior SRF Projects. The City shall, to the extent permitted by law, also indemnify and save harmless the Indemnified Parties against and from all costs, reasonable attorneys’ fees, expenses and liabilities incurred in any action or proceeding brought by reason of any such claim or demand. If any proceeding is brought against an Indemnified Party by reason of such claim or demand, the City shall, upon notice from an Indemnified Party, defend such proceeding on behalf of the Indemnified Party. Notwithstanding the foregoing, the City shall not be obligated to indemnify an Indemnified Party or any of its officers, employees or agents or hold any of them harmless against or from or in respect of any claim, damage, demand, expense, liability or loss arising from the intentional or willful misconduct or gross negligence of the Indemnified Parties.

Section 1.5. Tax Matters. During the time that any of the Outstanding SRF Bonds remain Outstanding, the City covenants and agrees with the DNRC as follows:

(a) Use of Prior SRF Projects. The Prior SRF Projects have been and will continue to be owned and operated by the City and available for use by members of the general public on a substantially equal basis. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Prior SRF

Projects or security for the payment of the Outstanding SRF Bonds which might cause the Outstanding SRF Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Code.

(b) General Covenant. The City covenants and agrees with the owners from time to time of the Outstanding SRF Bonds 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 Outstanding SRF Bonds 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 Outstanding SRF Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

(c) Arbitrage Certification. The Mayor, the City Finance Director and the City Clerk, being the officers of the City charged with the responsibility for issuing the Outstanding SRF Bonds pursuant to this Resolution, executed and delivered to the DNRC, as authorized and directed under the Prior Resolution, certificates 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 Outstanding SRF Bonds, it was reasonably expected that the proceeds of the Outstanding SRF Bonds will not be used in a manner that would cause the Outstanding SRF Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

(d) Arbitrage Rebate. The City acknowledges that the Outstanding SRF Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Outstanding SRF Bonds from gross income for federal income tax purposes, unless the Outstanding SRF Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Outstanding SRF Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Finance Director executed Rebate Certificates at the time of issuance of each Outstanding SRF Bond, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

Section 1.6. Continuing Disclosure. The City understands and acknowledges that the DNRC acquired the Outstanding SRF Bonds under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The City covenants and agrees that, so long as any Outstanding SRF Bonds are Outstanding, upon written request of the DNRC from time to time, the City will promptly provide to the DNRC all information that the DNRC reasonably determines to be necessary or appropriate to offer and sell State Bonds or to provide continuing disclosure in respect of State Bonds, whether under Rule 15c2-12 (17 C.F.R.

§ 240.15c2-12) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or otherwise. Such information shall include, among other things and if so requested, financial statements of the City prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under State law, as in effect from time to time (such financial statements to relate to a Fiscal Year or any period therein for which they are customarily prepared by the City, and, if for a Fiscal Year and so requested by the DNRC, subject to an audit report and opinion of an accountant or government auditor, as permitted or required by the laws of the State). The City will also provide, with any information so furnished to the DNRC, a certificate of the Mayor and the City Finance Director of the City to the effect that, to the best of their knowledge, such information does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make the statements made, in light of the circumstances under which they are made, not misleading.

## ARTICLE II

### MISCELLANEOUS

Section 2.1. 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  
1625 Eleventh Avenue  
Helena, Montana 59620  
Attn: Conservation and Resource Development Division

Trustee: U.S. Bank National Association  
c/o Corporate Trust Services  
Two Union Square  
601 Union Street, Suite 2120  
Seattle, Washington 98101  
Attn: Corporate Trust Department

City: City of Missoula  
435 Ryman St.  
Missoula, Montana 59802  
Attn: City Clerk

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 2.2. Binding Effect. This Resolution shall inure to the benefit of and shall be binding upon the DNRC with respect to the Outstanding SRF Bonds, the City and their respective permitted successors and assigns.

Section 2.3. Assignment. During the time that any of the Outstanding SRF Bonds remain Outstanding, the City may not assign its rights and obligations under this Resolution or the Outstanding SRF Bonds. During the time that any of the Outstanding SRF Bonds remain Outstanding, the DNRC will pledge its rights under and interest in this Resolution, the Outstanding SRF Bonds and the Collateral Documents (except to the extent otherwise provided in the Indenture) as security for the payment of the State Bonds.

Section 2.4. Amendments. So long any Outstanding SRF Bonds are Outstanding, this Resolution may not be effectively amended pursuant to Section 8.2 without the written consent of the DNRC.

Section 2.5. Right of Others to Perform City's Covenants. In the event the City shall fail to make any payment or perform any act required to be performed hereunder with respect to any Outstanding SRF Bond, 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 City and make advances for that purpose. No such performance or advance shall operate to release the City 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 (10.00%) per annum from the date of the advance until repaid. The DNRC and the provider of any Collateral Document shall have the right to enter the Prior SRF Project or the facility or facilities of which the Prior SRF Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section 2.5.