

AGENDA
SPECIAL MEETING
CITY OF SHELBY
October 10, 2017
7:30 P.M.

ROLL CALL OF MEMBERS

RESOLUTION NO. 1968 re: Approval of Bond Resolution for Phase 1 of 4th Cell

ADJOURN

CITY OF SHELBY MEETING SCHEDULE

October 10, 2017

7:30 p.m. **Special Meeting**

October 16, 2017

7:30 p.m. **Regular City Council Meeting**

October 30, 2017

6:30 p.m. **Park & Recreation Meeting**
(Mayor, Superintendent, Rec Director, Clark,
Kimmet, Miller)

November 6, 2017

7:00 p.m. **Audit Committee**
(Mayor, Finance Officer, Moritz, Clark,
McDermott)

7:30 p.m. **Regular City Council Meeting**

November 13, 2017

7:30 p.m. **City-County Planning Board**
(Mayor, Deputy Clerk, City Planner, McDermott,
Clark)

CITY COUNCIL PACKET LISTING

A. Agenda

B. Agenda Items

1. Resolution No. 1968 re: Approval of Bond Resolution for
Phase 1 of 4th Cell

C. Correspondence

- 1.

D. Reports

- 1.

E. Handouts

Policy on Conduct and Manner of Addressing Council

The public is invited to speak on any item after recognition by the presiding officer.

1. Public comments will be accepted only on items within the jurisdiction of the City of Shelby.
2. Comments shall be limited to 5 minutes per meeting, unless such time is extended by a majority vote of the Council members.
3. While the Council is in session, those in attendance must preserve order and decorum. No member of the public shall delay or interrupt the Council proceedings; disturb any member who may be speaking; or refuse to obey the orders of the Council or its presiding officer.
4. Prepared statements are welcome and should be given to the Finance Officer prior to a Council meeting. Prepared statements that are also read, however, shall be deemed unduly repetitious. All prepared statements for public hearings shall become part of the hearing record.
5. All remarks shall be addressed to the Council as a body and not to any member of the Council or Staff.
6. Public members recognized by the presiding officer, shall:
 - a. Stand, if able
 - b. For the record, give his/her name and address
 - c. If applicable, give the person, firm or organization he/she represents
 - d. Limit comments to the matter of fact
 - e. Address the Council as a body and not to any individual member of the Council or City Staff
 - f. Ask no questions of individuals who are Council members, staff or other public members, except through the presiding officer
 - g. Limit comments to a maximum of 5 minutes, unless such time is extended by a majority vote of Council members.

The Council thanks public members for respectfully and courteously providing constructive and valuable information.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Shelby, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 1968 entitled: "RESOLUTION RELATING TO \$648,000 SEWER SYSTEM REVENUE BONDS (DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM), CONSISTING OF \$300,000 SUBORDINATE LIEN TAXABLE SERIES 2017A BOND AND \$348,000 SERIES 2017B BOND; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF" (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 October 10, 2017, 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 10th day of October, 2017.

City Finance Officer
Jade Goroski

SUPPLEMENTAL RESOLUTION

Relating to

\$648,000

SEWER SYSTEM REVENUE BONDS
(DNRC WATER POLLUTION CONTROL STATE REVOLVING LOAN PROGRAM)
CONSISTING OF \$300,000 SUBORDINATE LIEN TAXABLE SERIES 2017A BOND
AND \$348,000 SERIES 2017B BOND

CITY OF SHELBY, MONTANA

Adopted: October 10, 2017

TABLE OF CONTENTS

(For convenience only, not a part of this Supplemental Resolution)

	<u>Page</u>
RECITALS	1
ARTICLE I DEFINITIONS, RULES OF CONSTRUCTION AND APPENDICES	2
Section 1.1 Definitions.....	2
Section 1.2 Other Rules of Construction	9
Section 1.3 Appendices.....	9
ARTICLE II AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS	9
Section 2.1 Authorization and Findings.....	9
Section 2.2 Representations	11
Section 2.3 Covenants.....	13
Section 2.4 Covenants Relating to the Tax-Exempt Status of the State Bonds	15
Section 2.5 Maintenance of System; Liens	17
Section 2.6 Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets.....	17
ARTICLE III USE OF PROCEEDS; THE 2017 PROJECT.....	18
Section 3.1 Use of Proceeds.....	18
Section 3.2 The 2017 Project	18
Section 3.3 2017 Project Representations and Covenants	19
Section 3.4 Completion or Cancellation or Reduction of Costs of the 2017 Project	20
ARTICLE IV THE LOAN.....	20
Section 4.1 The Loan; Disbursement of Loan	20
Section 4.2 Commencement of Loan Term	23
Section 4.3 Termination of Loan Term.....	23
Section 4.4 Loan Closing Submissions.....	23
ARTICLE V REPAYMENT OF 2017 LOANS.....	23
Section 5.1 Repayment of 2017 Loans	23
Section 5.2 Additional Payments	26
Section 5.3 Prepayments	26
Section 5.4 Obligations of Borrower Unconditional.....	26
Section 5.5 Limited Liability	27
ARTICLE VI INDEMNIFICATION OF DNRC AND DEQ	27

ARTICLE VII ASSIGNMENT	27
Section 7.1 Assignment by Borrower	27
Section 7.2 Assignment by DNRC	28
Section 7.3 State Refunding Bonds.....	28
ARTICLE VIII THE SERIES 2017 BONDS	28
Section 8.1 Net Revenues Available.....	28
Section 8.2 Issuance and Sale of the Series 2017 Bonds	28
Section 8.3 Terms.....	29
Section 8.4 Negotiability, Transfer and Registration.....	29
Section 8.5 Execution and Delivery.....	29
Section 8.6 Form	30
ARTICLE IX SECURITY FOR THE SERIES 2017 BONDS	30
ARTICLE X TAX MATTERS.....	31
Section 10.1 Use of 2017 Project and System	31
Section 10.2 General Covenant.....	31
Section 10.3 Arbitrage Certification	31
Section 10.4 Arbitrage Rebate Exemption.....	31
Section 10.5 Information Reporting.....	32
Section 10.6 “Qualified Tax-Exempt Obligations	32
ARTICLE XI AMENDMENT AND IMPLEMENTATION.....	32
Section 11.1 Authorization.....	32
Section 11.2 Consent.....	32
Section 11.3 Amendments	33
Section 11.4 Effect of Amendments	39
ARTICLE XII CONTINUING DISCLOSURE	39
ARTICLE XIII MISCELLANEOUS	40
Section 13.1 Notices.....	40
Section 13.2 Binding Effect	40
Section 13.3 Severability	41
Section 13.4 Amendments	41
Section 13.5 Applicable Law	41
Section 13.6 Captions; References to Sections	41
Section 13.7 No Liability of Individual Officers, Directors or Trustees	41
Section 13.8 Payments Due on Holidays	41
Section 13.9 Right of Others To Perform Borrower’s Covenants	41
Section 13.10 Authentication of Transcript	42

Section 13.11 Repeals and Effective Date42

Signatures.....42

APPENDIX A – Description of the 2017 Project..... A-1

APPENDIX B-1 – Form of Series 2017A Bond B-1-1

APPENDIX B-2 – Form of Series 2017B Bond..... B-2-1

APPENDIX C – Additional Representations and Covenants.....C-1

APPENDIX D – Compliance Certificate and Request D-1

RESOLUTION NO. 1968

RESOLUTION RELATING TO \$648,000 SEWER SYSTEM
REVENUE BONDS (DNRC WATER POLLUTION CONTROL
STATE REVOLVING LOAN PROGRAM), CONSISTING OF
\$300,000 SUBORDINATE LIEN TAXABLE SERIES 2017A
BOND AND \$348,000 SERIES 2017B BOND; AUTHORIZING
THE ISSUANCE AND FIXING THE TERMS AND
CONDITIONS THEREOF

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

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

WHEREAS, the current EPA Capitalization Grant (as hereinafter defined) requires that loans under the Program funded in whole or in part by such grant in the aggregate and not on a loan-by-loan basis be structured in such a way that a percentage of the total proceeds of such grant be subject to loan forgiveness; and

WHEREAS, the City of Shelby, Toole County, Montana (the "Borrower") has applied to the DNRC for the 2017 Loans (as hereinafter defined) from the Revolving Fund to enable the Borrower to finance, refinance or reimburse itself for the costs of the 2017 Project (as hereinafter defined) which will carry out the purposes of the Clean Water Act, to fund a deposit to the Bond Repayment Reserve Account (as hereinafter defined) and to pay costs of issuance of the Series 2017 Bonds (as hereinafter defined); and

WHEREAS, the DNRC offered to make loans in the total principal amount of \$648,000 available to the Borrower, with one loan in the amount of \$300,000 contemplated to be forgiven in the event the Borrower satisfies certain conditions; and

WHEREAS, the Borrower contemplates issuing bonds in two series, one a Series 2017A Bond in the maximum principal amount of \$300,000 (the "Series 2017A Bond"), and the other a

Series 2017B Bond in the maximum principal amount of \$348,000 (the "Series 2017B Bond"); and

WHEREAS, provided that the Borrower complies with certain conditions for principal forgiveness, the Borrower's obligation to repay the Series 2017A Bond will be forgiven; and

WHEREAS, the Borrower is authorized under applicable laws, ordinances and regulations to adopt this Supplemental Resolution and to issue the Series 2017 Bonds (as hereinafter defined) to evidence the 2017 Loans (as hereinafter defined) for the purposes set forth herein; and

[WHEREAS, the DNRC will fund: (i) the 2017A Loan (as hereinafter defined) entirely from proceeds of the EPA Capitalization Grant, and (ii) the 2017B Loan (as hereinafter defined) in part, directly or indirectly, from proceeds of the EPA Capitalization Grant and in part, directly or indirectly, with proceeds of the State's General Obligation Bonds (Water Pollution Control State Revolving Fund Program) (the "State Bonds").]

NOW, THEREFORE, BE IT RESOLVED BY THE BORROWER, 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, terms used with initial capital letters but undefined in this Supplemental Resolution shall have the meanings given them in the Original Resolution (as amended by Article XI below), the Indenture, in Article XI below, or as follows:

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

"Act" means Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as heretofore and hereafter amended or supplemented.

"Additional Bonds" means any Bonds issued pursuant to Article VI of the Original Resolution, excluding Section 6.05 thereof, as such Article VI is amended by the 1994 Supplemental Resolution.

"Administrative Expense Surcharge" means, (i) in respect of the 2017B Loan, in any event, and (ii) in respect of the 2017A Loan, upon the delivery of a Noncompliance Statement as provided by this Supplemental Resolution, a surcharge equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2017 Loans from the date of each advance thereof, payable by the Borrower on a Payment Date.

"Authorized DNRC Officer" means the Director of the DNRC or his or her designee.

“Bond Counsel” means any Counsel nationally recognized as experienced in matters relating to the issuance by states or political subdivisions of tax-exempt obligations selected by the Borrower and acceptable to the DNRC.

“Bond Repayment Account” means the account created in the Sewer System Fund pursuant to Section 4.04 of the Original Resolution, as amended by the 1994 Supplemental Resolution. For purposes of construing the Resolution, the “General Subaccount in the Bond Repayment Account” shall mean the “Bond Repayment Account,” in that the 1984 Subaccount therein is of no further force or effect.

“Bond Repayment Reserve Account” means the account created in the Sewer System Fund pursuant to Section 4.05 of the Original Resolution, as amended by the 1994 Supplemental Resolution. For purposes of this Resolution, the “General Subaccount in the Bond Repayment Reserve Account” shall mean the “Bond Repayment Reserve Account,” in that the 1984 Subaccount therein is of no further force or effect.

“Bonds” means the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, the Series 2017B Bond, and any Additional Bonds; “Bonds” does not include the Series 2017A Bond.

“Borrower” means the City.

“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 the State are authorized or required by law to close.

“City” means the City of Shelby, Montana and its permitted successors or assigns hereunder.

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

“Closing” means the date of delivery of the Series 2017 Bonds to the DNRC.

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

“Collateral Documents” means any security agreement, guaranty or other document or agreement delivered to the DNRC securing the obligations of the Borrower under this Supplemental Resolution and the Series 2017 Bonds. If no Collateral Documents secure such obligations, any reference to Collateral Documents in this Supplemental Resolution shall be without effect.

“Committed Amount” means the aggregate amount of the 2017 Loans committed to be lent by the DNRC to the Borrower pursuant to Section 4.1, as such amount may be reduced pursuant to Sections 3.2 and 3.4.

“Compliance Certificate and Request” means the certificate and request substantially in the form of the attached Appendix D delivered by the DNRC to the Borrower following the final

advance of principal of the 2017A Loan, to be completed, executed and delivered by the Borrower to the DNRC pursuant to Section 5.1.2

“Construction Account” means the account created in the Sewer System Fund pursuant to Section 4.02 of the Original Resolution, as amended by the 1994 Supplemental Resolution.

“Consultant” means a nationally recognized consultant or firm of consultants, or an independent engineer or firm of independent engineers, or an Accountant, which in any case is qualified and has skill and experience in the preparation of financial feasibility studies or projections for facilities similar to the System or the 2017 Project, selected by the Borrower and satisfactory to the DNRC.

“Council” means the City Council of the City of Shelby, Montana.

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

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

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

“Determination Statement” means a Forgiveness Statement or a Noncompliance Statement.

“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, the DNRC and the EPA concerning the Program.

“EPA Capitalization Grant” means a grant of funds to the State by the EPA under Section 1452 of the Clean Water Act.

“Estimated Completion Date” means on or before June 30, 2018, the date by which it is estimated by the Borrower that the 2017 Project will be substantially completed.

“Forgiveness Statement” means a written statement delivered to the Borrower by the DNRC in response to a Compliance Certificate and Request that the Borrower’s obligation to repay the principal of the Series 2017A Bond is forgiven.

“Fund” means the Sewer System Fund established pursuant to Section 4.01 of the Original Resolution.

“General Reserve Requirement” means, as of the date of calculation, an amount equal to one-half the sum of the highest amount of cumulative principal of and interest payable on all outstanding Bonds that are not RD Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any).

“General Reserve Subaccount” means the subaccount so named in the Bond Repayment Reserve Account created under Section 4.05 of the Resolution.

“Government Obligations” means direct obligations of, or obligations the principal of and the interest on which are fully and unconditionally guaranteed as to payment by, the United States of America.

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

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

“Loan Loss Reserve Surcharge” means, (i) in respect of the 2017B Loan, in any event, and (ii) in respect of the 2017A Loan, upon the delivery of a Noncompliance Statement as provided by this Supplemental Resolution, a surcharge equal to twenty-five hundredths of one percent (0.25%) per annum on the outstanding principal amount of the 2017 Loans from the date of each advance thereof, payable by the Borrower on a Payment Date.

“Loan Term” means that period of time commencing and ending as set in Sections 4.2 and 4.3.

“1994 Supplemental Resolution” means Resolution No. 1271 of the City adopted on August 8, 1994.

“Noncompliance Statement” means a written statement delivered to the Borrower by the DNRC that the Borrower’s obligation to repay the principal of the Series 2017A Bond is not forgiven.

“Operating and Maintenance Account” means the account created in the Sewer System Fund pursuant to Section 4.03 of the Original Resolution.

“Original Resolution” means Resolution No. 980 of the City adopted by the Council on November 2, 1984, as amended and supplemented by Resolution Nos. 1097, 1201, 1271, 1321,

1542, 1785, 1851, and 1914, adopted by the Council on October 10, 1990, November 16, 1992, August 8, 1994, February 5, 1996, November 5, 2001, November 16, 2009, October 15, 2012, and June 22, 2015, respectively.

“Payment Date” means, with respect the Series 2017B Bond, each January 1 and July 1 during the term of the Series 2017B Bond on which a payment of interest or principal and interest is due, as determined under the under this Supplemental Resolution and, if a Noncompliance Statement is delivered with respect to the 2017A Loan, each January 1 and July 1 during the term of the Series 2017A Bond on which a payment of interest or principal and interest is due, as determined under this Resolution.

“Person” means any individual, corporation, partnership, limited liability company, limited liability partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

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

“Project” means an improvement, betterment, reconstruction or extension of the System, including the 2017 Project.

“Public Entity” means a municipality, city, town, county, irrigation district, drainage district, county water and sewer district, a soil conservation district, political or administrative subdivision of State government or other public body established by State law or an Indian tribe that has a federally recognized governing body carrying out substantial governmental duties and powers over any area.

“RD Bonds” means Bonds issued by the Borrower and held by the USDA. The Series 2015 Bond is an RD Bond.

“RD Bonds Reserve Requirement” means, as of the date of calculation, an amount equal to the sum of the highest amount of cumulative principal of and interest payable on all outstanding Bonds that are RD Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any); provided that the RD Reserve Requirement is or may be funded monthly over a ten-year period from the date of issuance of an RD Bond until the amount accumulates to the RD Reserve Requirement, all as set forth in a Supplemental Resolution.

“RD Bonds Reserve Subaccount” means the subaccount so named in the Bond Repayment Reserve Account created under Section 4.05 of the Resolution.

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

“Registrar” means, with respect to the Series 2017 Bonds, the City Finance Officer or any successor appointed pursuant to this Resolution, and, with respect to any other series of Bonds, the Person or Persons designated by or pursuant to this Resolution or a Supplemental Resolution

to receive and disburse the principal of, premium, if any, and interest on the Bonds on behalf of the Borrower and to hold and maintain the Bond Register.

“Regulations” means the Treasury Department, Income Tax Regulations, as amended or any successor regulation thereto, promulgated under the Code or otherwise applicable to the Series 2017 Bonds.

“Replacement and Depreciation Account” means the Account created in the Sewer System Fund pursuant to Section 4.06 of the Original Resolution.

“Reserve Requirement” means, as of the date of calculation, the sum of the General Reserve Requirement and the RD Bonds Reserve Requirement.

“Resolution” means the Original Resolution, as amended and supplemented by this Supplemental Resolution and other supplemental resolutions.

“Revolving Fund” shall have the meaning set forth in the recitals hereof.

“Series 2001 Bond” means the First Amended and Restated Sewer System Revenue Refunding Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2001, issued by the Borrower pursuant to the Resolution as then in effect.

“Series 2009B Bond” means the Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009B, issued by the Borrower pursuant to the Resolution as then in effect.

“Series 2009C Bond” means the First Amended and Restated Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2009C, issued by the Borrower pursuant to the Resolution as then in effect.

“Series 2015 Bond” means the Sewer System Revenue Bond (USDA-RD Loan Program), Series 2015, issued by the Borrower pursuant to the Resolution as then in effect

“Series 2017 Bonds” means, collectively, the Series 2017A Bond and the Series 2017B Bond.

“Series 2017A Bond” means the \$300,000 Subordinate Lien Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Taxable Series 2017A, issued to the DNRC to evidence the 2017A Loan.

“Series 2017B Bond” means the \$348,000 Sewer System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2017B, issued to the DNRC to evidence the 2017B Loan.

“Sewer System Fund” means the fund created by Section 4.01 of the Original Resolution.

“State” means the State of Montana.

“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.

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

“Subordinate Obligation” means any Debt issued pursuant to Section 6.05 of the Original Resolution.

“Supplemental Resolution” means this Resolution No. ____ of the Borrower adopted on October 10, 2017.

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

“System” means the existing sanitary sewer system of the Borrower and all extensions, improvements and betterments thereof hereafter constructed and acquired, including, without limitation, the 2017 Project. The Storm Drainage System of the City is not a part of the System and no revenues of the Storm Drainage System are pledged to the repayment of the Bonds.

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

“2017 Loans” or “Loan” means, collectively, the 2017A Loan and the 2017B Loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the Committed Amount to provide funds to pay costs of the 2017 Project, to fund a deposit to the Bond Repayment Reserve Account and to pay costs of issuance of the Series 2017 Bonds.

“2017 Project” means the designing, engineering and construction of the facilities, improvements and activities the cost of which is being financed by or reimbursed to the Borrower in part with proceeds of the 2017 Loans, described in Appendix A hereto.

“2017A Committed Amount” means the amount of the 2017A Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1, as such amount may be reduced pursuant to Section 3.2 and Section 3.4.

“2017A Loan” means the loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the 2017A Committed Amount to provide funds to pay a portion of the costs of the 2017 Project payable under the Program.

“2017B Committed Amount” means the amount of the 2017B Loan committed to be lent by the DNRC to the Borrower pursuant to Section 4.1, as such amount may be reduced pursuant to Section 3.2 and Section 3.4.

“2017B First Advance” means the first advance of funds of the 2017B Loan by the DNRC to the Borrower in an amount of at least \$17,401.

“2017B Loan” means the loan made to the Borrower by the DNRC pursuant to the Program in the maximum amount of the 2017B Committed Amount to provide funds to pay a portion of the costs of the 2017 Project payable under the Program, to fund a deposit to the Bond Repayment Reserve Account and to pay costs of issuance of the Series 2017 Bonds.

“Undisbursed Committed Amount” means any undisbursed Committed Amount which is not required to pay costs of the 2017 Project as provided in Section 3.4.

Section 1.2 Other Rules of Construction. For all purposes of this Supplemental 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 Supplemental Resolution and hereby made a part hereof are the following Appendices:

Appendix A: a description of the 2017 Project;

Appendix B-1: the form of the Series 2017A Bond;

Appendix B-2: the form of the Series 2017B Bond;

Appendix C: additional agreements and representations of the Borrower; and

Appendix D: Compliance Certificate and Request.

ARTICLE II

AUTHORIZATION, FINDINGS, REPRESENTATIONS AND COVENANTS

Section 2.1 Authorization and Findings.

- (a) Authorization. Under the provisions of the Act, the Borrower is authorized to issue and sell 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 the System or to refund its revenue bonds issued for such purpose; provided that the bonds and the interest thereon are to be payable solely out of the net income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by the undertaking, and are not to create any obligation for the payment of which taxes may be levied except to pay for services provided by the undertaking to the Borrower.

(b) The System. The Borrower, pursuant to the Act and other laws of the State has established and presently owns and operates the System.

(c) The 2017 Project. After investigation of the facts and as authorized by the Act, this Council has determined it to be necessary and desirable and in the best interests of the Borrower to acquire and construct or pay the costs of the 2017 Project.

(d) Outstanding Bonds. Pursuant to the Act and the Original Resolution, the Borrower has issued, and has outstanding, its Series 2001 Bond, Series 2009B Bond, Series 2009C Bond, and Series 2015 Bond. The Series 2001 Bond, Series 2009B Bond, Series 2009C Bond, and Series 2015 Bond are payable from Net Revenues of the System. No other bonds or indebtedness are outstanding that are payable from or secured by revenues of the System.

(e) Additional Bonds. The Borrower reserved the right under Article VI of the Original Resolution, as amended by Section 11.3 hereof, to issue Additional Bonds to finance the cost or estimated cost of providing any improvement, extension or rehabilitation of the System; provided that if the Additional Bonds are issued to complete a project, Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such additional Bonds equaled at least 110% of the maximum amount of principal and interest payable from the Bond Repayment 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 the additional Bonds shall be those shown by the financial reports caused to be prepared by the Borrower pursuant to the Original Resolution, as amended by Section 11.3 hereof, except that if the rates and charges for services provided by the System or finally authorized to go into effect within 60 days after the issuance of the Additional Bonds 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 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 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 Bond Repayment Account if the Borrower 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 the Original Resolution to be maintained in any of the accounts of the Fund, which will not be cured or restored upon the issuance of the Additional Bonds. Based on a certificate executed or to be executed by the Mayor and the City Finance Officer, or either of them, it is hereby determined that the Borrower is authorized to issue \$348,000 in aggregate principal amount of additional Bonds pursuant to

Section 6.03 of the Original Resolution, as amended by Section 11.3 hereof, payable from and secured by the Net Revenues on a parity with the outstanding Series 2001 Bond, Series 2009B Bond, Series 2009C Bond, and Series 2015 Bond.

For purposes of the foregoing certificate, principal of and interest on the 2017A Loan are disregarded. The Borrower acknowledges and agrees that if it fails to deliver timely an acceptable Compliance Certificate and Request as provided in Section 5.1 of this Supplemental Resolution as determined in the sole and complete discretion of the DNRC or if a Noncompliance Certificate is delivered, then principal and interest and surcharges will become due and owing on the Series 2017A Bond as provided in Section 5.1 of this Supplemental Resolution, and the Borrower shall thereupon, and in any event no later than three (3) months after delivery of a Noncompliance Statement, to the extent required by Section 7.06 of Resolution No. 980 as amended by Section 6.8 of the 1994 Supplemental Resolution, as further amended by Section 11.3 of this Supplemental Resolution, adjust its schedule of fees, rates, and charges applicable to the System to cause Net Revenues and Surplus Net Revenues to be produced in an amount at least equal to that required by the Resolution.

Section 2.2 Representations. The Borrower represents as follows:

(a) Organization and Authority. The Borrower:

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

(2) 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 Supplemental Resolution and to enter into the Collateral Documents and to issue the Series 2017 Bonds and to carry out and consummate all transactions contemplated by the Supplemental Resolution, the Series 2017 Bonds and the Collateral Documents;

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

(4) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Supplemental Resolution, the Series 2017 Bonds and the Collateral Documents and the incurrence of the Debt evidenced by the Series 2017 Bonds in the maximum amount of the Committed Amount.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the Borrower threatened, against or affecting the Borrower 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 Borrower, or the ability of the Borrower to make all payments and otherwise perform its obligations under the Resolution, the Series 2017 Bonds and the Collateral Documents, or the financial condition of the Borrower, or the transactions contemplated by the Resolution, the Series 2017 Bonds and the Collateral Documents or the validity and enforceability of the Resolution, the Series 2017 Bonds and the Collateral Documents. No referendum petition has been filed with respect to any

resolution or other action of the Borrower relating to the 2017 Project, the Series 2017 Bonds or any Collateral Documents.

(c) Borrowing Legal and Authorized. The adoption of this Supplemental Resolution, the execution and delivery of the Series 2017 Bonds and the Collateral Documents and the consummation of the transactions provided for in this Supplemental Resolution, the Series 2017 Bonds and the Collateral Documents and compliance by the Borrower with the provisions of the Resolution, the Series 2017 Bonds and the Collateral Documents:

(1) are within the powers of the Borrower and have been duly authorized by all necessary action on the part of the Borrower; and

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

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2017 Bonds and the Collateral Documents, would constitute a default under the Resolution or the Collateral Documents. The Borrower 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 Borrower with the terms hereof or of the Series 2017 Bonds and the Collateral Documents.

(e) Governmental Consent. The Borrower has obtained or made all permits, findings and approvals required to the date of adoption of this Supplemental Resolution by any governmental body or officer for the making and performance by the Borrower of its obligations under this Supplemental Resolution, the Series 2017 Bonds and the Collateral Documents (including any necessary sewer rate increase) or for the 2017 Project, the financing or refinancing thereof or the reimbursement of the Borrower 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 Borrower as a condition to adopting this Supplemental Resolution, issuing the Series 2017 Bonds or entering into the Collateral Documents and the performance of the Borrower's obligations hereunder and thereunder. If a utility board or commission manages or controls the System, such board or commission has agreed with the DNRC to abide by the terms of the Resolution and the Collateral Documents, including approving any necessary sewer rate increases.

(f) Binding Obligation. The Resolution, the Series 2017 Bonds and any Collateral Document to which the Borrower is a party are the valid and binding special, limited obligations and agreements of the Borrower, enforceable against the Borrower 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 2017 Project. The 2017 Project consists and will consist of the facilities, improvements and activities described in Appendix A, as such Appendix A may be amended from time to time in accordance with the provision of Article III of this Supplemental Resolution. The 2017 Project comprises facilities of a type that, as determined by the EPA, will facilitate compliance with the national primary water pollution control regulations applicable to the System or will otherwise significantly further the health protection objectives of the Clean Water Act.

(h) The System. The System is a "public sewage system" within the meaning of the Act and the Clean Water Act in that it is a public sewage system that provides collection, transportation, treatment, or disposal of sewage for 15 or more families or 25 or more persons daily for any 60 or more days in a calendar year.

(i) Full Disclosure. There is no fact that the Borrower has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the Borrower 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 Borrower'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 Borrower's ability to perform its obligations under the Resolution, the Series 2017 Bonds and the Collateral Documents and to pledge any revenues or other property pledged to the payment of the Series 2017 Bonds.

(j) Compliance With Law. The Borrower:

(1) 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

(2) has obtained all licenses, permits, franchises or other governmental authorizations necessary to the ownership of the System and the operation thereof and agrees to obtain all such licenses, permits, franchises or other governmental authorizations as may be required in the future for the System and the operation thereof, which failure to obtain might materially and adversely affect the ability of the Borrower to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the Borrower's ability to perform its obligations under the Resolution, the Series 2017 Bonds and the Collateral Documents.

Section 2.3 Covenants.

(a) Insurance. The Borrower 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 Borrower 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. All such insurance policies shall name the DNRC as an additional insured to the extent permitted under the policy or program of insurance of the Borrower. Each policy must provide that it cannot be cancelled by the insurer without giving the Borrower and the DNRC 30 days' prior written notice. The Borrower shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 2.3(a) and of each renewal, replacement, change in coverage or deductible under or amount of or cancellation of each such insurance policy and the amount and coverage and deductibles and carrier of each new or replacement policy. Such notice shall specifically note any adverse change as being an adverse change. The Borrower shall deliver to the DNRC at Closing a certificate providing the information required by this Section 2.3(a).

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

(c) Further Assurance. The Borrower 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 the Resolution, the Series 2017 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 the Resolution, the Series 2017 Bonds and the Collateral Documents.

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

(1) The Borrower shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of the Resolution and the Collateral Documents so long as any amount is owing under the Resolution or the Series 2017 Bonds;

(2) The Borrower shall forthwith, after the execution and delivery of the Series 2017 Bonds and thereafter from time to time, cause the 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 the Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(3) Except to the extent it is exempt therefrom, the Borrower 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 (2), and all federal or state fees and other similar fees, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Series 2017 Bonds and the Collateral Documents and the documents described in subparagraph (2).

(e) Additional Agreements. The Borrower covenants to comply with all representations, covenants, conditions and agreements, if any, set forth in Appendix C hereto.

(f) Financial Information. This Section 2.3(f) supplements, and is not intended to limit, the requirements in Section 7.11 of the Original Resolution, which is amended by Section 11.3 of this Supplemental Resolution. The Borrower agrees that for each fiscal year it shall furnish to the DNRC and the DEQ, promptly when available, in addition to those matters specified in Section 7.11 of the Original Resolution:

(1) the preliminary budget for the System, with items for the 2017 Project shown separately; and

(2) when adopted, the final budget for the System, with items for the 2017 Project shown separately.

(g) 2017 Project Accounts. The Borrower shall maintain Project accounts in accordance with generally accepted government accounting standards.

(h) Records. After reasonable notice from the EPA or the DNRC, the Borrower shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Clean Water Act, as provided in Section 606(e75-5-1113(1)(d) of the Clean Water Act.

(i) Compliance with Clean Water Act. The Borrower has complied and shall comply with all conditions and requirements of the Clean Water Act pertaining to the 2017 Loans and the 2017 Project and shall maintain sufficient financial, managerial and technical capability to continue to effect such compliance.

(j) Compliance with DEQ Requirements. The Borrower shall comply with plan, specification and other requirements for public sewer systems established by the DEQ, as required by Section 75-5-1113(1)(g) of the Act..

Section 2.4 Covenants Relating to the Tax-Exempt Status of the State Bonds.

(a) The Borrower covenants and agrees that it will not use or permit to be used any of the proceeds of the Series 2017 Bonds or any other funds of the Borrower in respect of the 2017 Project or the Series 2017 Bonds, 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 Borrower 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 2017 Loans or the portion of the 2017 Loans derived directly or indirectly from proceeds of the State Bonds or that would otherwise cause any State Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code.

(c) The Borrower shall not use or permit the use of the 2017 Project directly or indirectly in any trade or business carried on by any Person who is not a Governmental Unit. For the purpose of this subparagraph, use as a member of the general public (within the meaning of the Regulations) 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 the 2017 Project being refinanced or the cost of which is being reimbursed was acquired by and is now and shall, during the term of the Loan, be owned by the Borrower and not by any other Person. Any portion of the 2017 Project being financed shall be acquired by and shall, during the term of the 2017 Loans, be owned by the Borrower and not by any other Person. Notwithstanding the previous two sentences, the Borrower may transfer the 2017 Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted under the Resolution and if such organization agrees with the DNRC to comply with Section 2.3(h), Section 2.3(i) and Section 2.4 of this Supplemental Resolution and if the DNRC receives an Opinion of Bond Counsel 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 or purposes of federal income taxation. In addition, except as otherwise provided in the Resolution or in any Collateral Documents, the Borrower may sell or otherwise dispose of any portion of the 2017 Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the Borrower or beneficial to the general public or necessary to carry out the purposes of the Clean Water Act.

(e) At the Closing of the 2017B Loan, the DNRC will, if necessary to obtain the Opinion of Bond Counsel described in Section 7.05(a) of the Indenture, deliver to the Borrower instructions concerning compliance by the Borrower with the arbitrage rebate requirements of Section 148 of the Code (the “Arbitrage Rebate Instructions”). The Borrower shall comply with the Arbitrage Rebate Instructions, if any, delivered to it by the DNRC at Closing, as such Instructions may be amended or replaced by the DNRC from time to time. 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 or any Additional 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 Borrower agrees that during the term of the 2017 Loans it will not contract with or permit any Private Person to manage the 2017 Project 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 State Bonds from gross income or purposes of federal income taxation.

(g) The Borrower may not lease the 2017 Project or any portion thereof to any Person other than a Nonexempt Person which agrees in writing with the Borrower and the State not to cause any default to occur under the Resolution; provided the Borrower may lease all or any portion of the 2017 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 Borrower shall not change the use or nature of the 2017 Project if (i) 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 2.5 Maintenance of System; Liens. The Borrower shall maintain the System, including the 2017 Project, in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The Borrower shall not grant or permit to exist any lien on the 2017 Project or any other property making up part of the System, other than liens securing Debt where a parity or senior lien secures the Series 2017 Bonds; provided that this Section 2.5 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 Borrower 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 of such lien.

Section 2.6 Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The Borrower 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 Borrower) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the Borrower under the Resolution, the Series 2017 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 Borrower under the Resolution, the Series 2017 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 the Series 2017B Bond or the State Bonds from gross income for federal income tax purposes and (c) the Borrower delivers to the DNRC on the date of such action an Opinion of Bond Counsel that such action complies with this Section 2.6.

Other than pursuant to the preceding paragraph, the Borrower 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, unless the provisions of (a) and (b) of the preceding paragraph are satisfied and the

Borrower delivers to the DNRC an Opinion of Bond Counsel to that effect and, in addition, the DNRC consents to such transfer.

ARTICLE III

USE OF PROCEEDS; THE 2017 PROJECT

Section 3.1 Use of Proceeds. The Borrower shall apply the proceeds of the 2017 Loans from the DNRC solely as follows:

(a) The Borrower shall apply the proceeds of the 2017 Loans solely to the financing, refinancing or reimbursement of the costs of the 2017 Project as set forth in Appendix A hereto and this Section 3.1, to fund a deposit to the Bond Repayment Reserve Account and to pay costs of issuance of the Series 2017 Bonds. The 2017 Loans will be disbursed in accordance with ARTICLE IV hereof and Article VII of the Indenture. If the 2017 Project has not been completed prior to Closing, the Borrower shall, as quickly as reasonably possible, complete the 2017 Project and expend proceeds of the 2017 Loans to pay the costs of completing the 2017 Project.

(b) No portion of the proceeds of the 2017 Loans shall be used to reimburse the Borrower for costs paid prior to the date of adoption of this Supplemental Resolution of a Project the construction or acquisition of which occurred or began earlier than March 7, 1985. In addition, if any proceeds of the Loan are to be used to reimburse the Borrower for 2017 Project costs paid prior to the date of adoption of this Supplemental Resolution, the Borrower shall have complied with Section 1.150-2 of the Regulations in respect of such costs.

(c) Any Debt to be refinanced with proceeds of the 2017 Loans was incurred after March 7, 1985, or with respect to a Project the construction or acquisition of which began after March 7, 1985. No proceeds of the 2017 Loans shall be used for the purpose of refinancing an obligation the interest on which is exempt from federal income tax or excludable from gross income for purposes of federal income taxation unless the DNRC has received an Opinion of Bond Counsel, satisfactory to it, to the effect that such refinancing will not adversely affect the exclusion of interest on the State Bonds from gross income for purposes of federal income taxation.

Section 3.2 The 2017 Project. Set forth in Appendix A to this Supplemental Resolution is a description of the 2017 Project, which describes the property which has been or is to be acquired, installed, constructed or improved and the other activities, if any to be funded from the 2017 Loans (the 2017 Project may consist of more than one facility or activity), and an estimated budget relating to the 2017 Project. The 2017 Project may be changed and the description thereof in Appendix A may be amended from time to time by the Borrower but only after delivery to the DNRC of the following:

(a) A certificate of the Borrower setting forth the amendment to Appendix A and stating the reason therefor, including statements as to whether the amendment would cause an increase or decrease in the cost of the 2017 Project or an increase or decrease in the amount of proceeds of the 2017 Loans which will be required to complete the 2017 Project and whether the change will materially accelerate or delay the construction schedule for the 2017 Project;

(b) A written consent to such change in the 2017 Project by an Authorized DNRC Officer;

(c) An Opinion or Opinions of Bond Counsel stating that the 2017 Project, as constituted after such amendment, is, and was at the time the State Bonds were issued, eligible for financing under the State Act and is, and was at the time the Series 2017 Bonds was issued, eligible for financing under the Act, such amendment will not violate the State Act or the Act and such amendment will not adversely affect the exclusion of interest on the State Bonds or the Series 2017 Bonds from gross income for purposes of federal income taxation. Such an Opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed; and

The Borrower acknowledges and agrees that an increase in the principal amount of the 2017 Loans may be made only upon an application to the DEQ, the DNRC and the Trustee, in such form as the DEQ shall specify, which is approved by the DEQ and the DNRC, in their sole and absolute discretion, and adoption by the governing body of the Borrower of a resolution amendatory of a Supplemental Resolution authorizing the additional loan and delivery of written certifications by officers of the Borrower to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in the resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan and compliance with applicable tests for the incurrence of such Debt. No assurance can be given that any additional loan funds will be available under the Program at the time of any such application or thereafter. The Borrower acknowledges and agrees that neither the DEQ, the DNRC, the Trustee nor any of their agents, employees or representatives shall have any liability to the Borrower and have made no representations to the Borrower as to the sufficiency of the 2017 Loans to pay costs of the 2017 Project or as to the availability of additional funds under the Program to increase the principal amount of the 2017 Loans.

Section 3.3 2017 Project Representations and Covenants. The Borrower hereby represents to and covenants with the DNRC that:

(a) all construction of the 2017 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations;

(b) all future construction of the 2017 Project will be done only pursuant to fixed price construction contracts. The Borrower shall obtain a performance and payment bond from the contractor for each construction contract in the amount of 100% of the construction price and ensure that such bond is maintained until construction is completed to the Borrower's, the DNRC's and the DEQ's satisfaction;

(c) all future construction of the 2017 Project will be done in accordance with plans and specifications on file with the DNRC and the DEQ, provided that changes may be made in such plans and specifications with the written consent of an Authorized DNRC Officer and the DEQ;

(d) all laborers and mechanics employed by contractors and subcontractors on the 2017 Project have been and will be paid wages at rates not less than those prevailing on projects of a

character similar in the locality as determined by the United States Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code;

(e) the iron and steel products used in the 2017 Project comply with the “American Iron and Steel” requirements of Section 436 of the Consolidated Appropriations Act of 2016 (P.L. 113-76), as those requirements are further interpreted by applicable EPA guidance;

(f) the 2017 Project is a project of the type permitted to be financed under the Act, the State Act and the Program and Title VI of the Clean Water Act; and

(g) the Borrower will undertake the 2017 Project promptly after the Closing Date and will cause the 2017 Project to be completed as promptly as practicable with all reasonable dispatch, except only as completion may be delayed by a cause or event not reasonably within the control of the Borrower; it is estimated by the Borrower that the 2017 Project will be substantially completed by the Estimated Completion Date.

Section 3.4 Completion or Cancellation or Reduction of Costs of the 2017 Project.

(a) Upon completion of the 2017 Project, the Borrower shall deliver to the DNRC a certificate stating that the 2017 Project is complete and stating the amount, if any, of the Undisbursed Committed Amounts. If Appendix A describes two or more separate projects as making up the 2017 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2017 Project is cancelled or cut back or its costs are reduced or for any other reason the Borrower will not require the full Committed Amount, the Borrower shall promptly notify the DNRC in writing of such fact and the amount of the Undisbursed Committed Amount.

ARTICLE IV

THE LOAN

Section 4.1 The Loan; Disbursement of Loan.

(a) The DNRC has agreed to lend to the Borrower, from time to time as the requirements of this Section 4.1 are met, an amount up to (i) \$300,000 (the “2017A Committed Amount”), and (ii) \$348,000 (the “2017B Committed Amount”) for the purposes of financing, refinancing or reimbursing the Borrower for costs of the 2017 Project, funding a deposit to the Bond Repayment Reserve Account and paying costs of issuance of the Series 2017 Bonds; provided the DNRC shall not be required to disburse any proceeds of the 2017 Loans after the Estimated Completion Date. The Committed Amounts may be reduced as provided in Sections 3.2 and 3.4.

(b) The DNRC intends to disburse the 2017 Loans through the Trustee. In consideration of the issuance of the Series 2017 Bonds by the Borrower, the DNRC shall make, or cause the Trustee to make, a disbursement of all or a portion of the 2017 Loans upon receipt of the following documents:

(1) an Opinion of Bond Counsel as to the Series 2017A Bond and an opinion of Bond Counsel as to the validity and enforceability of the Series 2017B Bond and the security therefor and stating in effect that interest on the Series 2017B Bond is not includable in gross income of the owner thereof for purposes of federal income taxation, in form and substance satisfactory to the DNRC;

(2) the Series 2017A Bond and the Series 2017B Bond, fully executed and authenticated;

(3) a certified copy of the Original Resolution and this Supplemental Resolution;

(4) any other security instruments or documents required by the DNRC or DEQ as a condition to their approval of the 2017 Loans;

(5) if all or part of a Loan is being made to refinance a Project or reimburse the Borrower for the costs of a Project paid prior to the Closing, evidence, satisfactory to the DNRC and the Bond Counsel referred to in subparagraph (1) above, (A) that the acquisition or construction of the Project was begun no earlier than March 7, 1985 or the debt was incurred no earlier than March 7, 1985, (B) of the Borrower's title to the Project, (C) of the costs of such Project and that such costs have been paid by the Borrower and (D) if such costs were paid before adoption of this Supplemental Resolution that the Borrower has complied with Section 1.150-2 of the Regulations;

(6) the items required by the Indenture for the portion of the 2017 Loans to be disbursed at Closing; and

(7) such other certificates, documents and other information as the DNRC, the DEQ or the Bond Counsel giving the opinion referred to in subparagraph (1) may require (including any necessary arbitrage rebate instructions).

(c) In order to obtain a disbursement of a portion of the 2017 Loans to pay costs of the 2017 Project, the Borrower shall submit to the DNRC and the Trustee a signed request for disbursement on the form prescribed by the DNRC, with all attachments required by such form. The Borrower may obtain disbursements only for costs which have been legally incurred and are due and payable. All Loan disbursements will be made to the Borrower only upon proof that cost was incurred.

(d) Provided that the EPA Capitalization Grant is available to the Program, from and after the 2017 First Advance, the 2017 Loans shall be disbursed, subject to the other terms and conditions of this Resolution, in the following order:

(1) First, the total amount of each advance will be split equally between the 2017A Loan and the 2017B Loan, until the entire amount of the 2017A Loan is advanced; provided that the initial advance of the 2017B Loan shall be in an amount of not less than the 2017B First Advance.

(2) Second, after the 2017A Loan is advanced in full, all advances will be from only the 2017B Loan.

(e) The Borrower shall submit the request for the 2017B First Advance in the form required by the DNRC so that it is received in sufficient time for the DNRC to process the information by the date desired by the Borrower for the making of the 2017B First Advance.

(f) The Borrower shall not be entitled to, and the DNRC shall have no obligation to make, the 2017B First Advance or any subsequent advance of amounts under the 2017B Loan until such time as the Borrower shall have set aside and funded the Bond Repayment Bond Repayment Reserve Account in an amount then required to satisfy the Reserve Requirement.

(g) For refinancings, a disbursement schedule complying with the requirements of the Clean Water Act shall be established by the DNRC and the Borrower at Closing.

(h) If all or a portion of the 2017 Loans is made to reimburse a Borrower for Project costs paid by it prior to Closing, the Borrower shall present at Closing the items required by Section 4.1(b) relating to such costs. The Trustee shall disburse such amounts to the Borrower pursuant to a disbursement schedule complying with the requirements of the Clean Water Act established by the DNRC and the Borrower at the Closing.

(i) Notwithstanding anything herein to the contrary, the Trustee shall not be obligated to disburse the 2017 Loans any faster or to any greater extent than it has available EPA Capitalization Grants, Bond proceeds and other amounts available therefor in the Revolving Fund. The DNRC shall not be required to do "overmatching" pursuant to Section 5.04(b) of the Indenture, but may do so in its discretion. The Borrower acknowledges that if Project costs are incurred faster than the Borrower projected at Closing, there may be delays in making Loan disbursements for such costs because of the schedule under which EPA makes EPA Capitalization Grant money available to the DNRC. The DNRC will use its reasonable best efforts to obtain an acceleration of such schedule if necessary.

(j) Upon making each 2017A Loan disbursement and 2017B Loan disbursement, the Trustee shall note such disbursement on Schedule A to the Series 2017A Bond and the Series 2017B Bond, respectively. At Closing, Schedule A to the Series 2017B Bond shall note the 2017B First Advance.

(k) The Borrower agrees that it will deposit in the General Reserve Subaccount in the Bond Repayment Reserve Account upon receipt thereof, on the date of the 2017B First Advance and any subsequent disbursement dates, any proceeds of the 2017B Loan borrowed for the purpose of increasing the balance in the General Reserve Subaccount in the Bond Repayment Reserve Account to the General Reserve Requirement. The Borrower further acknowledges and agrees that any portions of the 2017 Loans representing capitalized interest shall be advanced only on Payment Dates and shall be transferred by the Trustee on the Payment Date directly to the Bond Repayment Account. The amount of any such transfer shall be a credit against the interest payments due on the Series 2017 Bonds and interest thereon shall accrue only from the date of transfer.

(l) Compliance by the Borrower with its representations, covenants and agreements contained in the Original Resolution, this Supplemental Resolution and the Collateral Documents shall be a further condition precedent to the disbursement of the Loan in whole or in part. The DNRC and the Trustee, in their sole and absolute discretion, may make one or more disbursements, in whole or in part, notwithstanding such noncompliance, and without liability to make any subsequent disbursement of the Loan.

Section 4.2 Commencement of Loan Term. The Borrower's obligations under this Supplemental Resolution and the Collateral Documents shall commence on the date hereof unless otherwise provided in this Supplemental Resolution. However, the obligation to make payments under ARTICLE V hereof shall commence only upon the first disbursement by the Trustee of the 2017B First Advance.

Section 4.3 Termination of Loan Term. The Borrower's obligations under the Resolution and the Collateral Documents in respect of the Series 2017 Bonds shall terminate upon payment in full of all amounts due under the Series 2017 Bonds and the Resolution in respect thereof; provided, however, that the covenants and obligations provided in ARTICLE VI and 0 of this Supplemental Resolution shall survive the termination of the Resolution.

Section 4.4 Loan Closing Submissions. On or prior to the Closing, the Borrower will have delivered to the DNRC and the Trustee the closing submissions required by Section 7.05 of the Indenture.

ARTICLE V

REPAYMENT OF 2017 LOANS

Section 5.1 Repayment of 2017 Loans. The Borrower shall repay the amounts borrowed by it pursuant to Section 4.1 hereof in accordance with this Section 5.1.

5.1.1. Interest and Surcharges. Until a Determination Statement is delivered by the DNRC to the Borrower and so long as the Borrower's obligation to repay the principal of the 2017A Loan is forgiven as provided in Section 5.1.2 below, amounts disbursed by the DNRC under Section 4.1 hereof that are evidenced by the Series 2017A Bond bear interest at the rate of zero percent (0.00%) per annum from the date of each advance; provided, however, if the DNRC delivers to the Borrower a Noncompliance Statement, then all principal of the Series 2017A Bond advanced by the DNRC shall be payable and amounts disbursed by the DNRC under Section 4.1 hereof that are evidenced by the Series 2017A Bond shall bear interest at the rate of two percent (2.00%) per annum and in addition the Borrower shall pay the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge from the date of each advance under the Series 2017A Bond. The 2017B Loan shall bear interest at the rate of two percent (2.00%) per annum and the Borrower shall pay the Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal amounts of the 2017B Loan. For purposes of this Resolution and the Program, with respect to the 2017A Loan and the 2017B Loan, the term "interest on the 2017 Loans" or "interest on the 2017A Loan" or "interest on the 2017B Loan" when not used in conjunction with a reference to any surcharges, shall include the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, if applicable. The

Borrower shall pay all Loan Repayments and surcharges in lawful money of the United States of America to the DNRC. Interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge shall be calculated on the basis of a year of 360 days comprising 12 months of 30 days each.

5.1.2. Repayment of 2017A Loan; Principal Forgiveness.

(a) The Borrower is obligated to repay the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2017A Loan, unless the DNRC forgives the Borrower's obligation to repay the principal of the 2017A Loan as provided in Section 5.1.2(b). Subject to the provisions of Section 5.1.2(b), the Loan Repayments and the Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the 2017A Loan shall be due on each Payment Date, as follows:

- (1) Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the 2017A Loan shall be payable on each Payment Date following the date of delivery by the DNRC of a Noncompliance Statement and concluding on July 1, 2037; and
- (2) the principal of the 2017A Loan shall be payable on each Payment Date, beginning on the Payment Date that is the first to occur following delivery by the DNRC of a Noncompliance Statement, and concluding on July 1, 2037, and the amount of each principal payment shall be calculated on the basis of a substantially level debt service at the rate of 2.50% per annum; provided that principal of the 2017A Loan is payable only in amounts that are multiples of \$1,000.

(b) Notwithstanding Section 5.1.2(a), so long as the Borrower is proceeding diligently to completion of the 2017 Project and the Borrower has executed and delivered the Compliance Certificate and Request to the DNRC in form and substance satisfactory to the DNRC and the DEQ in their sole and absolute discretion within thirty (30) days after the date that the Compliance Certificate and Request is provided to the Borrower by the DNRC, the DNRC will, following review and approval of the Compliance Certificate and Request, deliver to the Borrower an Forgiveness Statement and the Borrower will thereafter have no obligation to repay amounts advanced under the Series 2017A Bond or interest or surcharges thereon and the Series 2017A Bond will be marked "CANCELLED" and returned by the DNRC to the Borrower. However, in the event the Borrower fails to deliver timely the Compliance Certificate and Request, or the Borrower cannot submit the Compliance Certificate and Request because it cannot make the certifications required therein, or the Compliance Certificate and Request is delivered in a form that deviates materially from that attached hereto as Appendix D as determined in the sole and absolute discretion of the DNRC and the DEQ, or the DNRC or the DEQ determines at any time that the 2017 Project or any portion thereof or of the work relating thereto fails to comply with Program requirements, then the DNRC will deliver to the Borrower a Noncompliance Statement. Upon delivery of a Noncompliance Statement by the DNRC to the Borrower, all principal advanced or to be advanced under the Series 2017 Bond, together with

interest, Administrative Expense Surcharge, and Loan Loss Reserve Surcharge thereon from the date of each advance, shall be payable as provided in Section 5.1.2 (a).

(c) In addition, in the event the DNRC delivers a Noncompliance Statement (i) the Series 2017A Bond will continue in effect as a Subordinate Obligation, and (ii) the Borrower will forthwith comply with the rate covenant set forth in Section 6.8 of the 1994 Supplemental Resolution, as amended by Section 11.3 of this Supplemental Resolution, and, if necessary, increase the rates and charges of the System to satisfy such rate covenant as soon as practicable and in any event no later than three (3) months after the date of delivery to the Borrower by the DNRC of a Noncompliance Statement.

5.1.3. Repayment of 2017B Loan. The Loan Repayments and surcharges on the 2017B Loan required by this Section 5.1 shall be due on each Payment Date, as follows:

- (1) interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the 2017B Loan shall be payable on each January 1 and July 1, beginning on January 1, 2018 and concluding on July 1, 2037; and
- (2) the principal of the 2017B Loan shall be repayable on each Payment Date, beginning on January 1, 2018, and concluding July 1, 2037, and the amount of each principal payment shall be calculated on the basis of a substantially level debt service at a rate of 2.50% per annum; provided that principal of the 2017B Loan is payable only in amounts that are multiples of \$1,000.

5.1.4. Details Regarding 2017 Loan Repayments. Upon each disbursement of the 2017 Loans to the Borrower pursuant to Section 4.1 hereof, the Trustee shall enter or cause to be entered the amount advanced on Schedule A to the Series 2017A Bond and the Series 2017B Bond, as applicable, under "Advances" and the total amount advanced under Section 4.1, including such disbursement, under "Total Amount Advanced." Loan Repayments and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge on the 2017B Loan and, if applicable, on the 2017A Loan, accrue on each such advance from the date of disbursement and shall be due and payable on the dates and in the amounts shown in Schedule B to the Series 2017A Bond and the Series 2017B Bond, as such Schedule B shall be modified from time to time as provided in Sections 5.1.2, 5.1.3, and 5.1.4. The portion of each such Loan Repayment consisting of principal, of interest, of Administrative Expense Surcharge and of Loan Loss Reserve Surcharge shall be set forth in Schedule B to the Series 2017A Bond and the Series 2017B Bond.

If the DNRC shall have delivered a Noncompliance Statement, then Schedule B to the Series 2017A Bond shall continue to reflect interest and surcharges on amounts advanced under the Series 2017A Bond at the rate of 2.50% per annum. If the DNRC delivers a Forgiveness Statement, Schedule B to the Series 2017A Bond will be disregarded and of no effect.

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

Any payment of principal and interest as to the Series 2017B Bond and, if applicable, the Series 2017A Bond, and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge as to the Series 2017B Bond, and, if applicable, the Series 2017A Bond under this Section 5.1 shall be credited against the same payment obligation under each of the Series 2017B Bond and, as applicable, the Series 2017A Bond.

Section 5.2 Additional Payments. The Borrower shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, including proceeds of the 2017 Loans, all reasonable expenses of the DNRC and the Trustee in connection with the 2017 Loans, the Collateral Documents and the Series 2017 Bonds, including, but not limited to:

(a) the cost of reproducing this Supplemental Resolution, the Collateral Documents and the Series 2017 Bonds;

(b) the fees and disbursements of bond counsel and other Counsel utilized by the DNRC and the Trustee in connection with the Loan, the Resolution, the Collateral Documents and the Series 2017 Bonds and the enforcement thereof; and

(c) all taxes and other governmental charges in connection with the execution and delivery of the Collateral Documents or the Series 2017 Bonds, whether or not the Series 2017 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 Series 2017 Bonds, the Collateral Documents and the Resolution under the 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 5.3 Prepayments. The Borrower may not prepay all or any part of the outstanding principal amount of the Series 2017B Bond, and, if applicable, the Series 2017A Bond, unless (i) a Determination Statement has been delivered, (ii) it obtains the prior written consent of the DNRC thereto, and (iii) no Loan Repayment or Administrative Expense Surcharge or Loan Loss Reserve Surcharge is then delinquent. Any prepayment permitted by the DNRC must be accompanied by payment of accrued interest, Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2017 Bonds are prepaid in part pursuant to this Section 5.3, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 5.4 Obligations of Borrower Unconditional. The obligations of the Borrower to make the payments required by the Resolution and the Series 2017 Bonds and to perform its other agreements contained in the Resolution, the Series 2017 Bonds and Collateral Documents shall be absolute and unconditional, except as otherwise provided herein or in such documents. The Borrower (a) shall not suspend or discontinue any payments provided for in the Resolution and the Series 2017 Bonds, (b) shall perform all its other agreements in the Resolution, the Series 2017 Bonds and the Collateral Documents and (c) shall not terminate the Resolution, the Series

2017 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 2017 Project 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 thereof 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 the Resolution.

Section 5.5 Limited Liability. All payments of principal of and interest on the 2017 Loans and other payment obligations of the Borrower hereunder and under the Series 2017 Bonds shall be special, limited obligations of the Borrower payable with respect to the Series 2017B Bond solely out of the Net Revenues or, with respect to the Series 2017A Bond, solely out of Surplus Net Revenues and shall not, except at the option of the Borrower and as permitted by law, be payable out of any other revenues of the Borrower. The obligations of the Borrower under this Resolution and the Series 2017 Bonds shall never constitute an indebtedness of the Borrower within the meaning of any State constitutional provision or statutory or charter limitation and shall never constitute or give rise to a pecuniary liability of the Borrower or a charge against its general credit or taxing power. The taxing powers of the Borrower may not be used to pay principal of or interest on the Series 2017 Bonds, no funds or property of the Borrower other than the Net Revenues may be required to be used to pay principal of or interest on the Series 2017B Bond, and no funds or property of the Borrower other than the Surplus Net Revenues may be required to be used to pay principal of or interest, if any, on the Series 2017A Bond.

ARTICLE VI

INDEMNIFICATION OF DNRC AND DEQ

The Borrower 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 Borrower 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 2017 Project. The Borrower shall also, to the extent permitted by law, 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 Borrower shall, upon notice from an Indemnified Party, defend such proceeding on behalf of the Indemnified Party.

ARTICLE VII

ASSIGNMENT

Section 7.1 Assignment by Borrower. The Borrower may not assign its rights and obligations under the Resolution or the Series 2017 Bonds.

Section 7.2 Assignment by DNRC. The DNRC will pledge its rights under and interest in the Resolution, the Series 2017 Bonds and the Collateral Documents (except to the extent otherwise provided in the Indenture) as security for the payment of the State Bonds and may further assign such interests to the extent permitted by the Indenture, without the consent of the Borrower.

Section 7.3 State Refunding Bonds. In the event the State Bonds and Additional State Bonds are refunded by bonds which are not Additional State Bonds, all references in the Resolution to State Bonds and Additional State Bonds shall be deemed to refer to the refunding bonds and any bonds of the State on a parity with such refunding bonds (together, the "Refunding Bonds") or, in the case of a crossover refunding, to the State Bonds and Additional State Bonds and the Refunding Bonds. In the event the State Bonds are refunded by an issue of Additional State Bonds, all references in the Resolution to the State Bonds shall be deemed to refer to such Additional State Bonds or, in the case of a crossover refunding, both the State Bonds and such Additional State Bonds.

ARTICLE VIII

THE SERIES 2017 BONDS

Section 8.1 Net Revenues Available. The Borrower is authorized to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System, and to pledge and appropriate to the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, and the Series 2017B Bond the Net Revenues (and in respect of the Series 2017A Bond, if necessary, the Surplus Net Revenues) to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired. The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2017B Bond are expected to be more than sufficient to pay the principal and interest when due on the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, and the Series 2017B Bond, and to create and maintain reasonable reserves therefor and to provide an adequate allowance for replacement and depreciation, as prescribed herein. For purposes of the foregoing statement, principal of and interest on the 2017A Loan are disregarded. The Borrower acknowledges and agrees that if the DNRC delivers a Noncompliance Statement to the Borrower that the obligation of the Borrower to repay the principal of the 2017A Loan is not forgiven as provided in Section 5.1.2 as determined in the sole and complete discretion of the DNRC and DEQ, then principal and interest and surcharges will become due and owing on the 2017A Loan evidenced by the Series 2017A Bond as provided in Section 5.1.2 and the Borrower shall thereupon, and no later than three months after delivery of such Noncompliance Statement, to the extent required by Section 6.8 of the 1994 Supplemental Resolution, as amended by Section 11.3 of this Supplemental Resolution, adjust its schedule of fees, rates and charges applicable to the System to cause Net Revenues and Surplus Net Revenues to be produced in an amount at least equal to that required by the Resolution.

Section 8.2 Issuance and Sale of the Series 2017 Bonds. The Council has investigated the facts necessary and hereby finds, determines and declares it to be necessary and desirable for the Borrower to issue the Series 2017 Bonds to evidence the 2017 Loans. The Series 2017

Bonds are issued to the DNRC without public sale pursuant to Montana Code Annotated, Section 7-7-4433.

Section 8.3 Terms. The Series 2017A Bond and the Series 2017B Bond shall be in the maximum principal amount equal to the original 2017A Committed Amount and 2017B Committed Amount, respectively, shall each be issued as a single, fully registered bond numbered R-1, shall be dated as of the date of delivery to the DNRC, and shall bear interest at the rate charged by the DNRC on the 2017A Loan and 2017B Loan, respectively. The principal of and interest on the Series 2017B Bond, and, if applicable, the principal of and interest on the Series 2017A Bond and any Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable on the same dates and in the same amounts on which Loan Repayments are payable. Advances of principal of the Series 2017A Bond or Series 2017B Bond shall be deemed made when advances of the 2017A Loan or 2017B Loan, respectively, are made under Section 4.1, and such advances shall be payable in accordance with Schedule B to the Series 2017B Bond, and, if applicable, the Series 2017A Bond, as it may be revised by the DNRC from time to time in accordance with Section 5.1. The Series 2017A Bond is a Subordinate Obligation payable only from the Surplus Net Revenues available in the Replacement and Depreciation Account or the Surplus Account.

The Borrower may prepay the Series 2017 Bonds, in whole or in part, only upon the terms and conditions under which it can prepay the 2017 Loans under Section 5.3.

Section 8.4 Negotiability, Transfer and Registration. The Series 2017 Bonds shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the DNRC, shall be dated the date of delivery. While so registered, principal of and interest on the Series 2017 Bonds shall be payable to the DNRC at the Office of the Department of Natural Resources and Conservation, 1539 Eleventh Avenue, Helena, Montana 59620-1601 or such other place as may be designated by the DNRC in writing and delivered to the Borrower. The Series 2017 Bonds shall be negotiable, subject to the provisions for registration and transfer contained in this Section. No transfer of the Series 2017 Bonds shall be valid unless and until (1) the holder, or his duly authorized attorney or legal representative, has executed the form of assignment appearing on the Series 2017 Bonds, and (2) the Finance Officer of the Borrower (or successors, the "Registrar"), as Bond Registrar, has duly noted the transfer on the Series 2017 Bonds and recorded the transfer on the registration books of the Registrar. 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 Borrower shall be entitled to deem and treat the Person in whose name the Series 2017 Bonds is registered as the absolute owner of the Series 2017 Bonds 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 Borrower's liability upon the Series 2017 Bonds to the extent of the sum or sums so paid.

Section 8.5 Execution and Delivery. The Series 2017 Bonds shall be executed on behalf of the Borrower by the manual signatures of the Mayor and the City Finance Officer. Any or all of such signatures may be affixed at or prior to the date of delivery of the Series 2017 Bonds. The Series 2017 Bonds shall be sealed with the corporate seal of the Borrower. In the event that any of the officers who shall have signed the Series 2017 Bonds shall cease to be

officers of the Borrower before the Series 2017 Bonds are issued or delivered, their signatures shall remain binding upon the Borrower. Conversely, the Series 2017 Bonds may be signed by an authorized official who did not hold such office on the date of adoption of this Supplemental Resolution. The Series 2017 Bonds shall be delivered to the DNRC, or its attorney or legal representative.

Section 8.6 Form. The Series 2017A Bond shall be prepared in substantially the form attached as Appendix B-1 and the Series 2017B Bond shall be prepared in substantially the form attached as Appendix B-2.

ARTICLE IX

SECURITY FOR THE SERIES 2017 BONDS

The Series 2017B Bond is issued as an Additional Bond under Article VI of the Original Resolution, as amended by Section 6.03 of the 1994 Supplemental Resolution and as further amended by Section 11.3 of this Supplemental Resolution, and shall, with the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, and any other Additional Bonds issued under the provisions of Article VI of the Original Resolution be equally and ratably secured by the provisions of the Resolution and payable out of the Net Revenues appropriated to the Bond Repayment Account of the Sewer System Fund, without preference or priority, all as provided in the Resolution, and secured by the General Reserve Subaccount in the Bond Repayment Reserve Account, as further provided in Section 4.05 of the Original Resolution, as amended by Section 11.3 of this Supplemental Resolution. Upon advancement of principal of the Series 2017B Bond, the City Finance Officer shall transfer from proceeds of the Series 2017B Bond such amount or amounts to the General Reserve Subaccount in the Bond Repayment Reserve Account to cause the balance therein to equal the General Reserve Requirement, treating such principal amount as outstanding. Upon each advance of the Series 2017B Bond, the deposit to the General Reserve Subaccount in the Bond Repayment Reserve Account shall be sufficient to cause the balance in the Bond Repayment Reserve Account to equal the Reserve Requirement in respect of the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, and the principal of the Series 2017B Bond so advanced. The Series 2017A Bond is a Subordinate Obligation issued under Section 6.05 of the Original Resolution, as amended hereby, payable from the Surplus Net Revenues that are available after required credits to the Operating and Maintenance Account, the Bond Repayment Account, and the Bond Repayment Reserve Account. No payment of principal or interest shall be made on any Subordinate Bond, including the Series 2017A Bond, if the City is then in default in the payment of principal of or interest on any Bond or if there is a deficiency in the Operating and Maintenance Account or the Bond Repayment Account or the balance in the Bond Repayment Reserve Account is less than the Reserve Requirement. In the event the principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge become payable under the Series 2017A Bond, the Borrower shall cause rates and charges to be increased to produce Net Revenues at least equal to the amount required under Section 7.06 of the Original Resolution, as amended by Section 11.3 below, within three (3) months following delivery of a Noncompliance Statement. The Borrower shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Resolution for the benefit of the registered

owners from time to time of the Series 2001 Bond, the Series 2009B Bond, the Series 2009C Bond, the Series 2015 Bond, and the Series 2017 Bonds.

ARTICLE X

TAX MATTERS

Section 10.1 Use of 2017 Project and System. The 2017 Project and the System will be owned and operated by the Borrower and available for use by members of the general public on a substantially equal basis. The Borrower shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the 2017 Project or the System or security for the payment of the Series 2017B Bond which might cause the Series 2017B Bond to be considered a “private activity bond” or “private loan bond” within the meaning of Section 141 of the Code.

Section 10.2 General Covenant. The Borrower covenants and agrees with the owners from time to time of the Series 2017B Bond 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 2017B Bond 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 2017B Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 10.3 Arbitrage Certification. The Mayor and the City Finance Officer, being the officers of the Borrower charged with the responsibility for issuing the Series 2017B Bond pursuant to this Supplemental Resolution, are authorized and directed to execute and deliver to the DNRC a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2017B Bond, it is reasonably expected that the proceeds of the Series 2017B Bond will be used in a manner that would not cause the Series 2017B Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the Regulations.

Section 10.4 Arbitrage Rebate Exemption.

(a) The Borrower hereby represents that the Series 2017B Bond qualifies for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the Borrower represents:

- (1) Substantially all (not less than 95%) of the proceeds of the Series 2017B Bond (except for amounts to be applied to the payment of costs of issuance) will be used for local governmental activities of the Borrower.
- (2) The aggregate face amount of all “tax-exempt bonds” (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds) issued by or on behalf of the Borrower and

all subordinate entities thereof during 2017 is reasonably expected not to exceed \$5,000,000. To date in 2017, the Borrower has issued no tax-exempt bonds, except its Storm Water Drainage System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2017 and in the calendar years 2011 through 2016, the Borrower issued no tax-exempt bonds, except its Series 2015 Bond, First Amended and Restated Water System Revenue Bonds (DNRC Drinking Water State Revolving Loan Program), First Amended and Restated Sewer System Revenue Bonds (DNRC Water Pollution Control State Revolving Loan Program), and _____.

(b) If notwithstanding the provisions of paragraph (a) of this Section 10.4, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Series 2017 Bonds, the Borrower hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

Section 10.5 Information Reporting. The Borrower shall file with the Secretary of the Treasury, not later than February 15, 2018, a statement concerning the Series 2017B Bond containing the information required by Section 149(e) of the Code.

Section 10.6 “Qualified Tax-Exempt Obligations.” Pursuant to Section 265(b)(3)(B)(ii) of the Code, the Borrower hereby designates the Series 2017B Bond as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code. The Borrower has not designated any obligations in 2017 other than the Series 2017B Bond and the Storm Water Drainage System Revenue Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2017 under Section 265(b)(3). The Borrower hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including “qualified 501(c)(3) bonds” but excluding other “private activity bonds,” as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the Borrower and all “subordinate entities” of the Borrower in 2017 in an amount greater than \$10,000,000.

ARTICLE XI

AMENDMENT AND IMPLEMENTATION

Section 11.1 Authorization. Pursuant to the Original Resolution, the Borrower reserved the right to amend the Resolution with the written consent of the DNRC and USDA.

Section 11.2 Consent. The DNRC and USDA have consented in writing to the amendments of the provisions of the Original Resolution set forth herein.

Section 11.3 Amendments.

(a) Section 1.01. Section 1.01 of the Original Resolution is hereby amended to add the following definition, in its entirety, as follows:

“General Reserve Requirement” means, as of the date of calculation, an amount equal to one-half the sum of the highest amount of cumulative principal of and interest payable on all outstanding Bonds that are not RD Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any).

“General Reserve Subaccount” means the subaccount so named in the Bond Repayment Reserve Account created under Section 4.05 of the Resolution.

“RD Bonds” means Bonds issued by the Borrower and held by the USDA. The Series 2015 Bond is an RD Bond.

“RD Bonds Reserve Requirement” means, as of the date of calculation, an amount equal to the sum of the highest amount of cumulative principal of and interest payable on all outstanding Bonds that are RD Bonds in any one future fiscal year (giving effect to mandatory sinking fund redemption, if any); provided that the RD Reserve Requirement is or may be funded monthly over a ten-year period from the date of issuance of an RD Bond until the amount accumulates to the RD Reserve Requirement, all as set forth in a Supplemental Resolution.

“RD Bonds Reserve Subaccount” means the subaccount so named in the Bond Repayment Reserve Account created under Section 4.05 of the Resolution.

(b) Section 1.01. The following definition in Section 1.01 of the Original Resolution is hereby amended as follows in its entirety:

“Reserve Requirement” means, as of the date of calculation, the sum of the General Reserve Requirement and the RD Bonds Reserve Requirement.

(c) Section 4.04. Section 4.04 of the Original Resolution is hereby amended to read as follows in its entirety:

“4.04. Bond Repayment Account. Upon each monthly apportionment there shall be set aside and credited to the Bond Repayment 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 semi-annually from the Bond Repayment Account and not less than the next monthly installment with respect to outstanding Bonds payable monthly from the Bond Repayment Account; provided that the Borrower shall be entitled to reduce a monthly credit by the amount previously credited to and then on deposit in the Bond Repayment Account. Money from time to time held in the Bond Repayment 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. The Borrower shall allocate amounts in the Bond Repayment Account (other than amounts segregated for the payment of Bonds no longer outstanding) to (i) outstanding Bonds that are not RD Bonds, and (ii) outstanding RD Bonds, pro rata, in proportion to the annual principal and interest requirements payable on the outstanding Bonds that are not RD Bonds and payable on the outstanding RD Bonds. If the amount so allocated to the outstanding Bonds that are not RD Bonds is insufficient to pay the principal of, premium, if any, and interest on such Bonds as due, the Town Clerk-Treasurer shall transfer from the General Reserve Subaccount the amount of such deficiency, to the extent funds are available in such subaccount. If the amount so allocated to outstanding RD Bonds is insufficient to pay the principal of, premium if any, and interest on such Bonds as due, the City Finance Officer shall transfer from the RD Bonds Reserve Subaccount the amount of such deficiency, to the extent fund are available in such subaccount. Except as provided in Sections 5.07 and 5.08, money from time to time held in the Bond Repayment Account shall be disbursed only to meet payments of principal of and interest on the Bonds as such payments become due; provided that on any date when the amount then on hand in the Bond Repayment Account, plus the amount in the Bond Repayment Reserve Account allocable to a series of Bonds, is sufficient with other moneys available for the purpose to pay or discharge all Bonds of that series and the interest accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when money in the Bond Repayment Account is temporarily insufficient therefor, to the extent of such deficiency, funds shall be advanced to the Bond Repayment Account out of any revenues theretofore segregated and then on hand in the appropriate subaccount in the Bond Repayment Reserve Account and then the Repair and Replacement Account or the Surplus Account, in that order.”

(d) Section 4.05. Section 4.05 of the Original Resolution is hereby amended to read as follows in its entirety:

“4.05. Bond Repayment Reserve Account. The Bond Repayment Reserve Account is hereby established as a separate account within the Sewer System Fund. The Bond Repayment Reserve Account is hereby segregated into two subaccounts: the RD Bonds Reserve Subaccount and the General Reserve Subaccount.

(a) Upon each advance of proceeds of the Series 2017B Bond, the Borrower shall transfer from proceeds of the Series 2017B Bond such amount to the General Reserve Subaccount to cause the balance therein to equal the General Reserve Requirement with respect to the principal amounts of the Series 2017B Bond so advanced.

(b) Thereafter, upon each monthly apportionment, from the Net Revenues remaining after the apportionment to the Bond Repayment Account, the Borrower shall credit to the General Reserve Subaccount and the RD Bonds

Reserve Subaccount, on a ratable basis such additional 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 General Reserve Requirement and the RD Bonds Reserve Subaccount, respectively.

(c) The General Reserve Subaccount shall secure all outstanding Bonds that are not RD Bonds. Money in the General Reserve Subaccount shall be used only to pay maturing principal, premium and interest on Bonds that are not RD Bonds when money within the Bond Repayment Account is insufficient therefor; provided that on any date when all outstanding Bonds that are not RD Bonds of a series are due or prepayable by their terms, if the amount then on hand in the General Reserve Subaccount allocable to such Bonds that are not RD Bonds and available for such appropriation is sufficient with money available for the purpose to pay all such Bonds that are not RD Bonds and the interest accrued thereon in full, it may be used for that purpose; and provided, further, that so long as the amount on hand in the General Reserve Subaccount is not less than the General Reserve Requirement, the Borrower may credit earnings on investment of the General Reserve Subaccount to the Bond Repayment Account or to the Replacement and Depreciation Account to be used for purposes described in Section 4.06.

(d) The RD Bonds Reserve Subaccount shall secure all outstanding RD Bonds. Money in the RD Bonds Reserve Subaccount shall be used only to pay maturing principal, premium and interest on RD Bonds when money within the Bond Repayment Account is insufficient therefor; provided that on any date when all outstanding RD Bonds of a series are due or prepayable by their terms, if the amount then on hand in the RD Bonds Reserve Subaccount allocable to such RD Bonds and available for such appropriation is sufficient with money available for the purpose to pay all such RD Bonds and the interest accrued thereon in full, it may be used for that purpose; and provided, further, that so long as the amount on hand in the RD Bonds Reserve Subaccount is not less than the RD Bonds Reserve Requirement, the Borrower may credit earnings on investment of the RD Bonds Reserve Subaccount to the Bond Repayment Account or to the Replacement and Depreciation Account to be used for purposes described in Section 4.06.

If on any interest payment date or principal payment date there shall exist a deficiency in the Bond Repayment Account to pay outstanding Bonds, the amount in the Bond Repayment Account shall be allocated, pro rata, between outstanding Bonds that are not RD Bonds and outstanding RD Bonds, in proportion to the debt service then payable on such Bonds, respectively. Upon calculation of such deficiencies, the Borrower shall immediately transfer from the General Reserve Subaccount to the Bond Repayment Account the amount of the deficiency in respect of the outstanding Bonds that are not RD Bonds and from the RD Bonds Reserve Subaccount the amount of the deficiency in respect of outstanding RD Bonds.”

(e) Section 4.06. Section 4.06 of the Original Resolution is hereby amended to read as follows in its entirety:

“Section 4.06. Replacement and Depreciation Account. There shall next be set aside and credited, upon each monthly apportionment, to the Replacement and Depreciation Account Surplus Net Revenues of the System, as the governing body of the City shall determine to be required for the accumulation of a reasonable allowance for depreciation of the System and for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Money in this 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 principal or interest when due thereon as required in Section 4.04, to fund any deficiency in the Bond Repayment 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, subject to the prior lien on Surplus Net Revenues to pay any deficiency of the Bond Repayment Account and the Bond Repayment Reserve Account, provided further that in the event construction and installation of additional improvements or additions to the System are financed other than from proceeds of Bonds payable from the Bond Repayment Account, Surplus Net Revenues from time to time received may be segregated and paid into one or more separate and additional accounts for the repayment of such indebtedness and interest thereon, in advance of payments required to be made into the Replacement and Depreciation Account, subject to the prior lien on Surplus Net Revenues to pay any deficiency of the Bond Repayment Account or the Bond Repayment Reserve Account and to pay the Series 2017A Bond, should it become payable as described herein.”

(f) Section 6.03. Section 6.03 of the Original Resolution is hereby amended to read as follows in its entirety:

“Section 6.03. Improvement Parity Bonds. The City reserves the right to issue additional Parity Bonds payable from the Bond Repayment Account of the Fund, on a parity as to both principal and interest with the Series 1994 Bond and other Parity Bonds then outstanding, if the Net Revenues of the System for the last complete fiscal year preceding the date of issuance of such additional Bonds have equaled to at least 110% of the maximum amount of principal and interest payable from the Bond Repayment 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 Section 7.11 of the 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 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 Bond Repayment 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 the Resolution to be maintained in any of the accounts of the Sewer Fund, which will not be cured or restored upon the issuance of the additional Bonds. Upon the issuance of a series of additional Parity Bonds, the City shall cause the General Reserve Subaccount and the RD Bonds Reserve Subaccount in the Bond Repayment Reserve Account to be increased from the proceeds of the additional Bonds or from Surplus Net Revenues, to an amount equal to the General Reserve Requirement and the RD Bonds Reserve Requirement, calculated after giving effect to the issuance of such additional Parity Bonds.”

(g) Section 7.06. Section 7.06(a) of the Original Resolution is hereby amended to read as follows in its entirety:

“Section 7.06. Charging and Collection of Fees.

(a) 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 Bonds and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System, and no free service shall be provided to any person or corporation. 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 will be at least sufficient to pay the current expenses of operation and maintenance as herein defined, to maintain a balance in the Bond Repayment Reserve Account equal to the Reserve Requirement, to provide reserves for the replacement and depreciation of the System, to produce Net Revenues during each fiscal year, not less than 110% of the maximum annual principal and interest payable on any outstanding Bonds in the current or any future fiscal year, and to produce Surplus Net

Revenues sufficient to pay the principal of and interest on any Subordinate Obligations as and when due.

“If at the close of any fiscal year the Net Revenues or Surplus 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 Net Revenues and Surplus Net Revenues in such amount, and will do all things necessary to the end that such schedule will be placed in operation at the earliest possible date.”

(h) Section 7.11. Section 7.11 of the Original Resolution is hereby amended to read, in its entirety, as follows:

“Section 7.11. Financial Information. The Borrower agrees that for each fiscal year it shall furnish to the DNRC and the DEQ, promptly when available:

- (1) the preliminary budget for the System, with items for the Project shown separately; and
- (2) when adopted, the final budget for the System, with items for the Project shown separately.

The Borrower will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the monthly gross revenues derived from its operation, and the segregation and application of the gross revenues in accordance with this Resolution, in such reasonable detail as may be determined by the Borrower 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 Borrower. The Borrower shall, within 270 days after the close of each fiscal year, cause to be prepared and supply to the DNRC a financial report with respect to the System for such fiscal year. The report shall be prepared at the direction of the financial officer of the Borrower in accordance with applicable generally accepted governmental accounting principles and, in addition to whatever matters may be thought proper by the financial officer to be included therein, shall include the following:

- (A) A statement in detail of the income and expenditures of the System for the fiscal year, identifying capital expenditures and separating them from operating expenditures;
- (B) A balance sheet as of the end of the fiscal year;
- (C) The number of premises connected to the System at the end of the fiscal year;

- (D) The amount on hand in each account of the Fund at the end of the fiscal year;
- (E) 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
- (F) A determination that the report shows full compliance by the Borrower 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 Bond Repayment Account (as hereinafter defined), and receipt of Net Revenues during each fiscal year at least equal to 110% 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 Borrower shall also have prepared and supplied to the DNRC and the DEQ, within 270 days of the close of every other 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 Borrower's compliance with the provisions of this Resolution.”

Section 11.4 Effect of Amendments. Except as amended by this Article XI, the provisions of the Original Resolution as now in effect remain unamended and the Original Resolution, as amended hereby, continues in full force and effect.

ARTICLE XII

CONTINUING DISCLOSURE

The Borrower understands and acknowledges that the DNRC is acquiring the Series 2017 Bonds under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The Borrower covenants and agrees that, upon written request of the DNRC from time to time, the Borrower 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 Borrower 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 (such financial statements to relate to a fiscal year or any period therein for which they are customarily prepared by the Borrower, 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 Borrower will also provide, with any information so furnished to the DNRC, a certificate of the Mayor and the City Finance Officer of the Borrower 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 XIII

MISCELLANEOUS

Section 13.1 Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

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

Trustee: U.S. Bank National Association
c/o Corporate Trust Services
1420 Fifth Avenue, 7th Floor
Seattle, Washington 98101

Borrower: City of Shelby
112 – 1st Street South
P. O. Box 743
Shelby, Montana 59474
Attn: City Finance Officer

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 13.2 Binding Effect. This Supplemental Resolution shall inure to the benefit of and shall be binding upon the DNRC, the Borrower and their respective successors and assigns.

Section 13.3 Severability. If any provision of this Supplemental Resolution shall be determined to be unenforceable at any time, it shall not affect any other provision of the Resolution or the enforceability of that provision at any other time.

Section 13.4 Amendments. This Supplemental Resolution may not be effectively amended without the written consent of the DNRC.

Section 13.5 Applicable Law. This Supplemental Resolution shall be governed by and construed in accordance with the internal laws of the State.

Section 13.6 Captions; References to Sections. The captions in this Supplemental Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Supplemental Resolution. References to Articles and Sections are to the Articles and Sections of this Resolution, unless the context otherwise requires.

Section 13.7 No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Supplemental 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 Borrower, 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 Borrower is hereby expressly waived and released by the Borrower and by the DNRC as a condition of and in consideration for the adoption of this Supplemental Resolution and the making of the Loan.

Section 13.8 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 Supplemental Resolution or the Series 2017 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 Supplemental Resolution or the Series 2017 Bonds.

Section 13.9 Right of Others To Perform Borrower's Covenants. In the event the Borrower shall fail to make any payment or perform any act required to be performed hereunder, then and in each such case the DNRC or the provider of any Collateral Document may (but shall not be obligated to) remedy such default for the account of the Borrower and make advances for that purpose. No such performance or advance shall operate to release the Borrower 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 2017 Project or the facility or facilities of which the 2017 Project is a part or any other facility which is a part of the System in order to effectuate the purposes of this Section.

Section 13.10 Authentication of Transcript. The officers of the Borrower are hereby authorized and directed to furnish to the DNRC and to Bond Counsel certified copies of all proceedings relating to the issuance of the Series 2017 Bonds and such other certificates and affidavits as may be required to show the right, power and authority of the Borrower to issue the Series 2017 Bonds, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the Borrower as to the truth of the statements of fact purported to be shown thereby.

Section 13.11 Repeals and Effective Date.

(a) Repeal. All provisions of other resolutions and other actions and proceedings of the Borrower 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.

(b) Effective Date. This Resolution shall take effect immediately..

Adopted by the City Council of the City of Shelby, Montana, on this 10th day of October, 2017.

Mayor

Attest: _____
City Finance Officer

(SEAL)