

RESOLUTION NO. 2019-07

A RESOLUTION OF THE FOUR CORNERS COUNTY WATER AND SEWER DISTRICT, GALLATIN COUNTY, MONTANA, DECLARING IT TO BE THE INTENTION OF THE BOARD OF DIRECTORS TO LEVY SPECIAL ASSESSMENTS TO REPAY A SPECIAL ASSESSMENT BOND TO BE ISSUED FOR THE PURPOSE OF IMPROVING ITS WASTEWATER SYSTEM BENEFITING ALL PROPERTIES IN THE DISTRICT AND THE IMPOSING OF ASSESSMENTS FOR THE FINANCING A PORTION OF THE COSTS OF SUCH WASTEWATER SYSTEM IMPROVEMENTS AND THE COSTS INCIDENTAL THERETO AND CALLING FOR PUBLICATION OF NOTICE OF PASSAGE OF THIS RESOLUTION AND ESTABLISHING A PROTEST PERIOD AND SETTING A PUBLIC HEARING

WHEREAS, The Four Corners County Water and Sewer District, Gallatin County, Montana (the "District") is a county water and sewer district, validly organized pursuant to Title 7, Chapter 13, Parts 21 and 22 and is located within the boundaries of Gallatin County, a political subdivision of the State of Montana (the "County"); and

WHEREAS, the existing wastewater treatment plant lacks the capacity to provide adequate redundancy for the existing system users; and

WHEREAS, the existing wastewater treatment plant lacks the capacity to allow for needed maintenance activities to occur; and

WHEREAS, at the time of acquisition it was made known to District members that expansion of the existing wastewater treatment plant would be necessary in order to accommodate users who had previously received commitments to be allowed to connect to the system; and

WHEREAS, the existing wastewater treatment plant lacks the capacity to allow for properties with existing on-site septic systems to connect to the public system, further contributing to potential degradation of the public water supply serving existing users;

WHEREAS, the District continues to experience population growth and increased demand; and

WHEREAS, The District has hired Morrison-Maierle (the "Engineer") to assess the wastewater system capacity, redundancy, and maintenance issues and the Engineer has recommended that construction of a new water reclamation facility to provide additional wastewater treatment capacity. The new water reclamation facility will be designed to have the ability to expand incrementally to accommodate growth and increased demand in the District; and

WHEREAS, the District has received funding commitments for loans in the amount of \$11,600,000 from the Montana Department of Natural Resources and Conservation ("DNRC") (with \$300,000 of the loan to be forgiven under certain circumstances and \$11,300,000 payable over 30 years at 2.50% interest) for a portion of the costs of constructing the new Sequencing

Batch Reactor (SBR) water reclamation facility with an initial wastewater treatment capacity of 200,000 gallons per day with the ability to expand incrementally as a special assessment bond, funding reserves, and costs associated with the issuance of the below described bonds (the “Project”); and

WHEREAS, the Board has determined that all of the property incorporated in the District , including recently annexed property, can and will be benefitted by the Project, and that it is fair and reasonable that each parcel or lot in the District be assessed special assessments to pay an equal portion of the costs of the Project; and

WHEREAS, the Board has determined that it is in the best interest of the District that a special assessment bond in the estimated principal amount of \$11,300,000 be issued to finance a portion of the Project, which bond will have a term of up to 30 years and will be payable from special assessments to be levied annually against each lot or parcel in the District in an equal amount pursuant to Section 7-13-2280 and 7-12-2151(d), M.C.A.; and

WHEREAS, the Board has determined it is in the best interest of the District that a portion of the existing cash reserves of the District, in the estimated amount of \$1,868,967, will be contributed to assist in financing the Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the District, as follows:

Section 1. Intention to Levy Series 2019 Wastewater Special Assessments. The District Board intends to establish and levy wastewater system special assessments pursuant to Sections 7-13-2280 through 2289 and Section 7-12-2151(1)(d) of the Montana Code Annotated, as amended, (the “Series 2019 Wastewater Special Assessments”) and levy the Series 2019 Wastewater Special Assessments against the benefited properties shown on Exhibit A hereto for the purpose of financing \$11,300,000 of the costs of the acquisition of the Wastewater System, payable over 30 years with interest at a rate of 2.50% per annum. The Series 2019 Wastewater Special Assessments, when collected, will be used to pay the principal of and interest on, the \$11,300,000 Series 2019 Wastewater System Special Assessment Bond (DNRC Water Pollution Control State Revolving Loan Program) (the “Series 2019 Special Assessment Bond”) payable semi-annually over 30 years at 2.50% per annum.

Section 2. Description of Benefited and Assessed Property. The boundaries of the properties to be included in the District are shown on Exhibit A hereto. A listing of each parcel or lot of the properties in the District and the owners thereof benefited by the acquisition of the Wastewater System is shown on Exhibit B hereto. Exhibits A and B are hereby incorporated herein and made a part hereof.

Section 3. Description of the Wastewater System. The Wastewater System currently serves properties in the District and some adjacent properties by handling the collection and treatment of wastewater and is in compliance with Montana Department of Environmental Quality requirements. The District intends to finance a portion of the Project through the issuance of the Series 2019 Special Assessment Bond.

Section 4. Existing Wastewater System Debt. The District currently has outstanding its \$9,300,000 Wastewater System Special Assessment Bond (DNRC Water Pollution Control State Revolving Loan Program), Series 2015, payable over 30 years (the “Series 2015 Special Assessment Bond”) and its \$3,060,000 Wastewater System Revenue Bond (Coal Severance Tax Loan Program), Series 2015, payable over 20 years (the Series 2015 Revenue Bond”). The Series 2015 Special Assessment Bond and the Series 2015 Revenue Bond were used to fund the purchase of the current wastewater system.

Section 5: Assessment Methods. All properties in the District listed in Exhibit A will be assessed for their proportionate share of the \$11,300,000 costs of the Project to be paid by the Series 2019 Special Assessment Bond on the basis of an equal amount per benefited lot or parcel based on the total cost of the Project to be paid by the Series 2019 Wastewater Special Assessments as authorized in Section 7-12-2151(1)(d) and Section 7-13-2280, MCA. The estimated total principal amount of each lot or parcel’s assessment for the Series 2019 Special Assessment is \$5,388.65 (based on 2097 benefitted wastewater lots or parcels). The estimated annual assessment, based on an equal amount per benefitted lot or parcel, for the Series 2019 Special Assessment Bond is \$256.81. As provided in Section 7-12-2151(4), MCA, and Section 7-13-2280, MCA, if an increase occurs in the number of benefitted lots or parcels within the boundaries of the District during the term of bonded indebtedness that is payable from the assessments, the District Board shall recalculate the amount assessable to each lot or parcel. The District Board shall base the recalculation on the amount of the District’s outstanding special assessment bonded indebtedness for the current fiscal year and shall spread the assessments across the District based on the number of benefitted lots or parcels within the boundaries of the District as of July 1 following the action that resulted in the increase in the number of benefitted lots or parcels. This Board finds the assessment method is equitable and in proportion to and not exceeding the benefit derived from the Wastewater System for each lot or parcel to be assessed for the Project.

Section 6. Payment of Assessments/Date of Delinquency. The Series 2019 Wastewater Special Assessments assessed for the Project shall be payable over a term not exceeding 30 years at 2.50% interest, each in equal semiannual payments of principal and interest. Property owners have the right to prepay assessments as provided in Section 7-13-2287(3) MCA. The Series 2019 Wastewater Special Assessments will be paid in two semi-annual assessments due November 30th and May 31st each year, commencing November 30, 2019, and if not paid on such dates will then be delinquent.

Section 7. Method of Financing. The District intends to issue the Series 2019 Special Assessment Bond in the aggregate principal amount of \$11,300,000 payable over 30 years, semi-annually, with interest at 2.50% per annum, in order to finance a portion of the costs of the Project. Principal of and interest on the Series 2019 Special Assessment Bond will be paid from Series 2019 Wastewater Special Assessments levied against all the property listed on Exhibit B. This Board further finds it is in the public interest, and in the best interest of the District, to secure payment of principal of and interest on the Series 2019 Special Assessment Bond by including in the principal amount of the Series 2019 Wastewater Special Assessment Bond the funding of a reserve account equal to one-half the maximum principal and interest due on the Series 2019 Special Assessment Bond in any fiscal year (the “Reserve Account”).

Section 8. Operation and Maintenance and Replenishing Reserve. The District shall be responsible for operation and maintenance of the Wastewater System in accordance with Title 7 Chapter 13, Parts 22 and 23 MCA. The District shall continue to charge fees for the Wastewater System services provided by the District in order to pay the principal of and interest on the District's Series 2015 Revenue Bond and to pay for reserves, including a short-lived asset reserve, and operation and maintenance of the Wastewater System. The District intends to replenish the Reserve Account from payments made on delinquent assessments (or from proceeds of tax sales if the delinquencies are unpaid) and from the District's revenues. Except for providing replenishment of the Reserve Account, the District does not intend to use the District's operating revenues to pay any of the Series 2019 Special Assessment Bond.

Section 9. Public Hearing; Protests. At any time within thirty (30) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to the Series 2019 Wastewater Special Assessment may make and file with the Secretary of the District at 495 Quail Run Road, Bozeman, MT 59718) until 5:00 p.m., M.T., on the expiration date of said 30-day period (August 14, 2019), a written protest against the proposed Project or against the proposed levy of the Series 2019 Wastewater Special Assessment by the District or both, and this Board will, at a meeting at the Monforton School Library, 6001 Monforton School Road, Bozeman, Montana on August 20, 2019 at 6:30 PM, proceed to hear all such written protests so made and filed. The protest must identify the property in the District owned by the protestor and be signed by all owners of the property, except as otherwise provided for condominium units, which have a different requirement, as described in Section 7-13-2290, MCA.

Section 10. Notice of Passage of Resolution of Intention. The District Secretary is hereby authorized and directed to sign and publish or cause to be published a copy of a notice of the passage of this resolution in the Bozeman Daily Chronicle, a newspaper of general circulation in the County on July 14, 2019 and July 21, 2019, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation listed on Exhibit A having benefited real property within the District listed in his or her name upon the last completed assessment roll for state, county and school district taxes, at his last-known address, at least 10 days before the hearing. The Secretary is directed to keep a copy of this Resolution for inspection by property owners in the District at 495 Quail Run Road, Bozeman, MT 59718.

Section 11. Combined Series 2019 and Series 2015 Special Assessments. It is the intention of the Board of Directors of the District, pursuant to Section 7-13-2280, MCA, Section 7-12-2151(4), MCA, and House Bill No. 324 of the 66th Montana Legislature passed and signed into law on May 10, 2019 with an immediate effective date, that the Series 2015 Special Assessment will be recalculated and spread against properties in the District as of July 1, 2019. The estimated annual equal amount per benefitted parcel for the previously issued Series 2015 Special Assessment Bond is \$217. The annual assessments for the Series 2015 Special Assessment Bond and the Series 2019 Special Assessment Bond will be combined for a total estimated annual special assessment amount for each parcel in the District (as identified on the attached Exhibit B) of \$473.81.

PASSED AND ADOPTED by the Board of Directors of the Four Corners County Water and Sewer District, Gallatin County, Montana, this 9 day of July, 2019.

FOUR CORNERS COUNTY WATER
AND SEWER DISTRICT

By: Nancy A. Flikkema
Vice President

ATTEST:

[Signature]
Secretary

The following Board members voted for the Resolution Flikkema, West, Klumb
and George 4-0 voted against and Thatcher (absent)
abstained or were absent.