

RESOLUTION NO. 2015-8

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 ACQUIRING A WASTEWATER SYSTEM BENEFITING CERTAIN PROPERTIES IN THE DISTRICT AND THE IMPOSING OF ASSESSMENTS FOR THE FINANCING A PORTION OF THE COSTS OF ACQUIRING OF SUCH WASTEWATER SYSTEM 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 District has provided water and sewer services to properties in the District pursuant to a contract for services with Utility Solutions, LLC ("Utility Solutions") since May 24, 2005; and

WHEREAS, the District and Utility Solutions entered into a Buy-Sell Agreement, dated February 17, 2015, pursuant to which, among other things, the District agreed to buy, and Utility Solutions agreed to sell, the water and wastewater systems (the "Systems") owned by Utility Solutions for a purchase price of \$19,500,000 plus an estimated \$3,057,889 (for then yet to be completed wastewater treatment improvements), upon approval of the voters of the District and upon receipt of financing terms from funding agencies acceptable to the Board; and

WHEREAS, the Board submitted to the electors of the District the question of whether the Board should be authorized to issue and sell bonds of the District in an aggregate principal amount not to exceed Twenty-Three Million Dollars (\$23,000,000) consisting of approximately \$16,000,000 of special assessment bonds ("Special Assessment Bonds") payable from an equal amount of special assessments levied annually against each lot or parcel of land in the District for a term of up to thirty (30) years and approximately \$7,000,000 of revenue bonds ("Revenue Bonds") payable by rates and charges imposed by the District for a term of up to twenty (20) years for the purpose of acquiring the water and wastewater piping, treatment plants, equipment and associated land, easements and water rights of Utility Solutions presently serving the lands in the District and Elk Grove Subdivision, including approximately \$3,057,000 of wastewater improvements being constructed by Utility Solutions, LLC; funding reserves; and paying costs associated with the sale and issuance of the bonds (the "Project"); and

WHEREAS, pursuant to a duly conducted mail ballot election held on May 5, 2015, by a vote of 495 for and 26 against, the voters of the District approved the issuance of Special Assessment Bonds in the amount of approximately \$16,000,000 and approximately \$7,000,000 of Revenue Bonds to finance the acquisition of the Systems; and

WHEREAS, the District has received funding commitments for the Project as follows: U.S.D.A purchase of a \$6,700,000 Water Special Assessment Bond, payable over 30 years; U.S.D.A purchase of a \$3,940,000 Water Revenue Bond, payable over 20 years; DNRC SRF Loan Program \$9,300,000 Wastewater Special Assessment Bond, payable over 30 years; and a DNRC Coal Severance Tax Program \$3,060,000 Wastewater Revenue Bond, payable over 20 years; and

WHEREAS, the Board has determined that all of the property incorporated in the District can and will be served by the Systems, if not already served; and therefore, that all properties in the District are benefited by the availability of the Systems, 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 acquiring the Systems; and

WHEREAS, Section 7-13-2280 through 2290, M.C.A. authorize the District to issue special assessment bonds of the District to acquire, construct or improve water and wastewater facilities upon certain conditions; and

WHEREAS, Section 7-13-2301, M.C.A. authorizes the District to charge a portion of the District's rates and charges for the acquisition of, and construction of improvements to a water and wastewater system; and

WHEREAS, the Board has determined that it is in the best interest of the District that special assessment bonds in the estimated principal amount of \$16,000,000 be issued to finance a portion of the Project, which bonds (as described above with \$9,300,000 for wastewater and \$6,700,000 for water) 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 revenue bonds, in the estimated principal amount of \$7,000,000, be issued to finance the remaining portion of the Project with such revenue bonds paid from District rates and charges.

NOW, THEREFOR, BE IT RESOLVED by the Board of Directors of the Four Corners County Water and Sewer District, Gallatin County, Montana (the District), as follows:

Section 1. Intention to Levy 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 "Wastewater Special Assessments") and levy the Wastewater Special Assessments against the benefited properties shown on Exhibit A hereto for the purpose of financing \$9,300,000 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 Wastewater Special Assessments, when collected, will be used to pay the principal of and interest on, the \$9,300,000 Wastewater System Special Assessment Bond (DNRC Water Pollution Control State Revolving Loan Program) Series 2015 Bond (the "Wastewater Special Assessment Bond") payable semi-annually over 30 years at 2.50% per annum.

Section 2. Description of Benefited and Assessed Property. 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 A hereto. Exhibit A is 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 Wastewater System was most recently valued by HDR Engineering at \$19,293,000. The District intends to acquire the Wastewater System through the issuance of the \$9,300,000 Wastewater Special Assessment Bond for the portion of the Wastewater System to be acquired with an estimated useful life in excess of 30 years (the "Special Assessment Funded Portion"), and the issuance of the \$3,060,000 DNRC Coal Severance Tax Bond for the recently completed improvements to the Wastewater System and the portion of the Wastewater System with an estimated useful life of less than 30 years.

Section 4. Assessment Methods. All properties in the District listed in Exhibit A will be assessed for their proportionate share of the \$9,300,000 costs of the acquisition of the Wastewater System to be paid by the Wastewater Special Assessment Bond on the basis of an equal amount per benefited lot or parcel based on the total cost of the Wastewater System acquisition to be paid by 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 Wastewater System is \$7,328.61 (based on 1269 benefited wastewater lots or parcels). The annual equal amount per benefited parcel is estimated at \$357.17 for the first year's assessment (one-half collected in November 2016 and one-half collected in May 2017) with the assessments thereafter estimated at \$357.76 per year for the remaining 29 years based on a Wastewater Special Assessment Bond of \$9,300,000 fully amortized over 30 years with an interest rate of 2.50% bond interest rate and 1269 lots or parcels being benefited. 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 Special Assessment Funded Portion.

Section 5. Payment of Assessments/Date of Delinquency. The Wastewater Special Assessments for the Special Assessment Funded Portion and incidental expenses (including costs of issuance and funding a reserve) to be paid by the Wastewater Special Assessment Bond shall be payable over a term not exceeding 30 years, 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 semi-annual assessments will be due November 30th and May 31st each year, commencing November 30, 2016, and if not paid on such dates will then be delinquent.

Section 6. Method of Financing. The District intends to issue the Wastewater Special Assessment Bond in the aggregate principal amount of \$9,300,000 in order to finance a portion of the costs of the Wastewater System acquisition to be paid by the Special Assessment Funded Portion. Principal of and interest on the Wastewater Special Assessment Bond will be paid from Wastewater Special Assessments levied against all the property listed on Exhibit A. 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 Wastewater Special Assessment Bond by including in the principal amount of the Wastewater Special Assessment Bond the funding of a Reserve Account

equal to one-half the maximum principal and interest due on the Wastewater Special Assessment Bond in any fiscal year (the "Reserve Account").

Section 7. 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 charge fees for the Wastewater System services provided by the District in order to pay the principal of and interest on the District's \$3,060,000 Coal Severance Tax Wastewater Revenue Bond and to pay for reserves 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 Wastewater Special Assessment Bond.

Section 8. 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 Wastewater Special Assessment may make and file with the Secretary of the District (Maralee Parsons Sullivan, c/o mailing address 1807 West Dickerson, Unit B Bozeman, MT 59715) until 5:00 p.m., M.T., on the expiration date of said 30-day period (November 23, 2015), a written protest against the proposed Wastewater System acquisition or against the proposed levy of Wastewater Special Assessments by the District or both, and this Board will, at a meeting at Monforton School Cafeteria, 6000 Monforton School Road, Bozeman, Montana on November 23, 2015 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 provided by Section 7-13-2290, MCA, which has a different requirement for owners of condominium units.

Section 9. Notice of Passage of Resolution of Intention. The District Secretary is hereby authorized and directed to 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 October 24, 2015 and October 31, 2015, 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 Buffalo Bump Pizza 28901 Norris Rd, Bozeman, MT 59718 and at 1807 West Dickerson, Unit B, Bozeman, Montana.

PASSED AND ADOPTED by the Board of Directors of the Four Corners County Water and Sewer District, Gallatin County, Montana, this 22nd day of October, 2015.

FOUR CORNERS COUNTY WATER AND SEWER DISTRICT

By: [Signature]
President

ATTEST:
[Signature]
Secretary

The following Board members voted for the Resolution all present,
and 0 voted against and 0
abstained or were absent.