

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Great Falls, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 9226 entitled: "RESOLUTION RELATING TO CITY OF GREAT FALLS WATER SYSTEM AND REVENUE BONDS; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS OF \$8,030,000 WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2002A, AMENDING AND RESTATING THE TERMS OF \$3,000,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER REVOLVING LOAN PROGRAM), SERIES 2000, AND CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY FOR SUCH BONDS AND ANY ADDITIONAL BONDS" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Commission of the City at a meeting on May 7, 2002, and that the meeting was duly held by the City Commission 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Commission members voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_ ; voted against the same: \_\_\_\_\_  
\_\_\_\_\_ ; abstained from voting thereon: \_\_\_\_\_  
\_\_\_\_\_ ; or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of May, 2002.

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

## TABLE OF CONTENTS

(Not a part of the Resolution and not to be used in the interpretation of any provision thereof)

ARTICLE I DEFINITIONS, AUTHORIZATIONS AND FINDINGS.....	1
Section 1.01. Definitions .....	1
Section 1.02. Rules of Interpretation .....	7
Section 1.03. Authorization.....	8
Section 1.04. Recitals.....	8
Section 1.05. Findings and Determinations.....	8
Section 1.06. Recitals.....	9
Section 1.07. Exhibits .....	9
ARTICLE II THE BONDS .....	9
Section 2.01. General Title .....	9
Section 2.02. General Limitations: Issuable in Series .....	9
Section 2.03. Terms of Particular Series.....	10
Section 2.04. Form and Denominations of Particular Series.....	10
Section 2.05. Execution and Authentication.....	11
Section 2.06. Temporary Bonds .....	11
Section 2.07. System of Registration.....	11
Section 2.08. Priority of Payments.....	13
ARTICLE III AUTHORIZATION AND SALE OF THE SERIES 2002A BONDS; APPLICATION OF PROCEEDS; ESCROW AGREEMENT.....	13
Section 3.01. Authorization and Sale .....	13
Section 3.02. Official Statement .....	13
Section 3.03. Application of Proceeds of Series 2002A Bonds.....	13
Section 3.04. Escrow for Refunded Bonds; Escrow Agreement .....	14
Section 3.05. Redemption of Refunded Bonds .....	14
Section 3.06. Purchase of Certain Obligations.....	14
ARTICLE IV THE SERIES 2002A BONDS.....	14
Section 4.01. Form of Series 2002A Bonds .....	14
Section 4.02. Denominations, Stated Maturities, Interest Rates .....	15
Section 4.03. Redemption.....	15
Section 4.04. Execution and Delivery.....	16
Section 4.05. Transcript Certification .....	16
Section 4.06. Securities Depository.....	17
Section 4.07. Provisions Relating to Bond Insurance.....	18
Section 4.08. Registrar for the Series 2002A Bonds .....	22

ARTICLE V THE LOAN; REPAYMENT; REPRESENTATIONS AND COVENANTS; THE SERIES 2000 BOND.....	22
Section 5.01. The Loan; Disbursement of Loan .....	22
Section 5.02. Commencement of Loan Term.....	24
Section 5.03. Termination of Loan Term.....	24
Section 5.04. Loan Closing Submissions .....	24
Section 5.05. Repayment of Loan.....	24
Section 5.06. Additional Payments .....	26
Section 5.07. Prepayments .....	26
Section 5.08. Obligations of City Unconditional.....	26
Section 5.09. Limited Liability .....	26
Section 5.10. Representations .....	27
Section 5.11. Covenants.....	29
Section 5.12. Covenants Relating to the Tax-Exempt Status of the State Bonds .....	31
Section 5.13. Maintenance of System; Liens.....	33
Section 5.14. Maintenance of Existence; Merger, Consolidation, Etc. ....	33
Section 5.15. Use of Proceeds .....	33
Section 5.16. The Series 2000 Project.....	34
Section 5.17. 2000 Project Representations and Covenants.....	35
Section 5.18. Completion or Cancellation or Reduction of Costs of the 2000 Project.....	35
Section 5.19. Issuance and Sale of the Series 2000 Bond.....	35
Section 5.20. Terms of the Series 2000 Bond.....	35
Section 5.21. Negotiability, Transfer and Registration.....	36
Section 5.22. Execution and Delivery.....	36
Section 5.23. Form.....	36
Section 5.24. Authentication of Transcript.....	36
Section 5.25. Right of Others To Perform City's Covenants .....	36
Section 5.26. Indemnification of DNRC, DEQ and Trustee .....	37
Section 5.27. Assignment by City .....	37
Section 5.28. Assignment by DNRC .....	37
Section 5.29. State Refunding Bonds.....	37
ARTICLE VI ADDITIONAL BONDS AND SUBORDINATE OBLIGATIONS.....	37
Section 6.01. Additional Bonds.....	37
Section 6.02. Subordinate Obligations Permitted.....	40
ARTICLE VII WATER SYSTEM FUND.....	40
Section 7.01. Bond Proceeds and Revenues Pledged and Appropriated.....	40
Section 7.02. Construction Account .....	41
Section 7.03. Operating Account .....	41
Section 7.04. Debt Service Account .....	42
Section 7.05. Reserve Account .....	42
Section 7.06. Subordinate Obligations Account .....	43
Section 7.07. Repair and Replacement Account.....	43

Section 7.08.	Surplus Account.....	43
Section 7.09.	Rebate Account.....	44
Section 7.10.	Deposit and Investment of Funds .....	44
ARTICLE VIII GENERAL COVENANTS .....		45
Section 8.01.	General.....	45
Section 8.02.	Competing Service .....	45
Section 8.03.	Property Insurance .....	45
Section 8.04.	Liability Insurance and Surety Bonds.....	46
Section 8.05.	Disposition of Property .....	46
Section 8.06.	Books and Records.....	46
Section 8.07.	Cost of Insurance and Accounting.....	47
Section 8.08.	Handling of Funds .....	47
Section 8.09.	Rates and Charges.....	48
Section 8.10.	Billing .....	48
Section 8.11.	Appointment of Superintendent .....	49
Section 8.12.	Remedies.....	49
ARTICLE IX SUPPLEMENTAL RESOLUTIONS.....		49
Section 9.01.	General.....	49
Section 9.02.	Consent of Bondholders.....	50
Section 9.03.	Notice.....	50
Section 9.04.	Manner of Consent.....	50
Section 9.05.	Consent of DNRC .....	51
Section 9.06.	Bond Insurance Policy Not Taken Into Account .....	51
ARTICLE X DEFEASANCE.....		51
Section 10.01.	General.....	51
Section 10.02.	Maturity .....	51
Section 10.03.	Redemption.....	51
Section 10.04.	Escrow .....	51
Section 10.05.	Deposits in Trust.....	52
ARTICLE XI TAX MATTERS .....		52
Section 11.01.	Use of Proceeds.....	52
Section 11.02.	General Covenant .....	52
Section 11.03.	Certification .....	52
Section 11.04.	Arbitrage Rebate .....	52
Section 11.05.	“Qualified Tax-Exempt Obligations .....	53
Section 11.06.	Information Reporting.....	53
ARTICLE XII CONTINUING DISCLOSURE .....		54
Section 12.01.	Purpose and Beneficiaries .....	54

Section 12.02.	Information To Be Disclosed.....	54
Section 12.03.	Manner of Disclosure.....	57
Section 12.04.	Term; Amendments; Interpretation .....	57
Section 12.05.	Further Limitation of Liability of City.....	58
Section 12.06.	Continuing Disclosure to DNRC .....	58
ARTICLE XIII MISCELLANEOUS; EFFECTIVE DATE; REPEALS .....		59
Section 13.01.	Notices .....	59
Section 13.02.	Severability .....	59
Section 13.03.	Applicable Law.....	59
Section 13.04.	Captions; References to Sections .....	59
Section 13.05.	No Liability of Individual Officers, Directors or Trustees.....	60
Section 13.06.	Effective Date; Repeals.....	60
EXHIBIT A --- Form of Series 2002A Bond		
EXHIBIT B --- Description of 2000 Project		
EXHIBIT C ---Form of Series 2000 Bond		
EXHIBIT D --- Additional Covenants and Agreements		

RESOLUTION NO. 9226

RESOLUTION RELATING TO CITY OF GREAT FALLS WATER SYSTEM AND REVENUE BONDS; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS OF \$8,030,000 WATER SYSTEM REVENUE REFUNDING BONDS, SERIES 2002A, AMENDING AND RESTATING THE TERMS OF \$3,000,000 WATER SYSTEM REVENUE BOND (DNRC DRINKING WATER REVOLVING LOAN PROGRAM), SERIES 2000, AND CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY FOR SUCH BONDS AND ANY ADDITIONAL BONDS

BE IT RESOLVED by the City Commission of the City of Great Falls, Montana, as follows:

ARTICLE I

DEFINITIONS, AUTHORIZATIONS AND FINDINGS

Section 1.01. Definitions. The terms defined in this Section 1.01 shall for all purposes of this Resolution have the meanings herein specified, unless the context clearly otherwise requires:

Accountant shall mean a Person engaged in the practice of accounting as a certified public accountant, whether or not employed by the City, and if the Series 2000 Bond is Outstanding, satisfactory to the DNRC.

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

Additional Bonds shall mean any Bonds issued pursuant to Article VI, excluding Subordinate Obligations.

Administrative Fee shall mean a fee equal to five hundred seventy-five hundredths of one percent (0.575%) of the initial Committed Amount retained by the DNRC from the proceeds of the Loan at Closing.

Administrative Expense Surcharge shall mean a surcharge on the Loan charged by the DNRC to the City equal to (seventy-five hundredths of one percent) 0.75% per annum on the outstanding principal amount of the Loan, payable by the City on the same dates that payments of interest on the Loan are due.

Authorized DNRC Officer shall mean the Director of the DNRC or his or her designee.

Bonds shall mean the Series 2000 Bond, the Series 2002A Bonds and any Additional Bonds.

Bond Counsel shall mean any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, selected by the City and if the Series 2000 Bond is Outstanding, satisfactory to the DNRC.

Bondholder shall mean the Person in whose name a Bond is registered in the Bond Register.

Bond Register shall mean the register maintained by the Registrar pursuant to Section 2.07.

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

City shall mean the City of Great Falls, Montana, or its successors.

City Resolution shall mean a resolution, ordinance or other appropriate enactment by the Commission certified by the City Clerk to have been duly adopted and to be in full force and effect.

Closing shall mean the date of delivery of the DNRC Bond to the DNRC, i.e., December 21, 2000.

Code shall mean the Internal Revenue Code of 1986, as amended.

Construction Account shall mean the account created by Section 7.02.

Consultant shall mean an Engineer or an Accountant, retained by the City and of favorable reputation, and if the Series 2000 Bond is Outstanding, satisfactory to the DNRC.

Commission shall mean the governing body of the City.

Committed Amount shall mean the amount of the Loan committed to be lent by the DNRC to the City pursuant to Section 5.01 of this Resolution, as such amount may be reduced pursuant to Sections 5.16 and 5.18 of this Resolution.

Debt shall mean, without duplication, (1) indebtedness of the City for borrowed money or for the deferred purchase price of property or services; (2) the obligation of the City as lessee under leases which should be recorded as capital leases under generally accepted accounting principles; and (3) obligations of the City 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.

Debt Service Account shall mean the account created by Section 7.04.

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

DNRC shall mean 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.

DNRC Bond shall mean the Water and Sanitary Sewerage System Revenue Bond (DNRC Drinking Water Revolving Loan Program), Series 2000, dated as of December 21, 2000, originally issued to the DNRC to evidence the Loan.

Engineer shall mean an individual or firm registered and licensed to provide engineering services in the State, experienced in the design and construction of facilities comparable to the System and financial feasibility studies or projections relating thereto.

EPA shall mean the Environmental Protection Agency, an agency of the United States of America, and any successor to its functions under the Safe Drinking Water Act.

EPA Agreements shall mean all capitalization grant agreements and other written agreements between the DEQ, DNRC and the EPA concerning the Program.

EPA Capitalization Grant shall mean a grant of funds to the State by the EPA under Section 1452 of the Safe Drinking Water Act.

Fiscal Year shall mean the period commencing on the first day of July of any year and ending on the last day of June of the next year, or any other specified twelve-month period, authorized by law and specified by the Commission as the City's fiscal year.

Government Obligations shall mean 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 shall mean governmental unit as such term is used in Section 145(a) of the Code.

Holder shall mean a Bondholder.

Indenture shall mean the Indenture of Trust, dated as of May 1, 1998, 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.

Independent shall mean, when used with respect to any specified Person, such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the City, other than the payment to be received under a contract for services to be performed by such Person; and (iii) is not connected with the City as an officer, employee, promoter, trustee, partner, director, underwriter or person performing similar functions. Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished, such Person shall be appointed by the Commission and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

Interest Payment Date shall mean the Stated Maturity of an installment of interest on any of the Bonds.

Loan shall mean the Loan made to the City by the DNRC pursuant to the Program in the maximum amount of the Committed Amount to provide funds to pay all or a portion of the costs of the 2000 Project, the Origination Fee and the Administrative Fee payable under the Program and to fund a deposit to the Reserve Account.

Loan Loss Reserve Surcharge shall mean a fee equal to one percent (1.00%) per annum on the outstanding principal amount of the Loan, payable on the same dates that payments of interest on the Loan are due.

Maturity shall mean, when used with respect to any Bond, the date on which the principal of such Bond becomes due and payable as therein or herein provided, whether at its Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

Net Revenues shall mean the Revenues for a specified period less the Operating Expenses for the same period.



Operating Account shall mean the account created by Section 7.03.

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

Opinion of Counsel shall mean a written opinion of counsel, who may (except as otherwise expressly provided in this Resolution) be counsel for the City.

Original Purchaser shall mean, with respect to any Series of Bonds, the original purchaser or underwriter of such Series of Bonds. The Original Purchaser of the Series 2000 Bond is the DNRC. The Original Purchaser of the Series 2002A Bonds is D. A. Davidson & Co., of Great Falls, Montana.

Origination Fee shall mean 1% of the Committed Amount, which is payable to the DNRC at Closing either from the proceeds of the Loan, to the extent permitted by the Indenture, or from funds of the City.

Outstanding shall mean, when used with reference to Bonds, as of the date of determination, all Bonds theretofore issued except:

- (i) Bonds theretofore cancelled by the City or the Registrar or delivered to the City or the Registrar cancelled or for cancellation;
- (ii) Bonds and portions of Bonds for whose payment or redemption money or Government Obligations (as provided in Article X) shall have been theretofore deposited in trust for the Holders of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Resolution or irrevocable instructions to call such Bonds for redemption at a stated Redemption Date shall have been given by the City; and
- (iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Resolution;

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

Person shall mean 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.

Principal and Interest Requirements shall mean, with respect to any Outstanding Bonds and for any Fiscal Year, the amount of principal of and interest on such Bonds due and payable during such Fiscal Year, assuming that Outstanding Serial Bonds are paid at their Stated Maturities and Outstanding Term Bonds are paid on Sinking Fund Payment Dates according to the mandatory redemption requirements established by the Resolution; provided that if Additional Bonds are issued to refund any Outstanding Bonds and a crossover refunding escrow is established from proceeds thereof as

contemplated in Section 6.01(E)(1), then such Additional Bonds shall not be deemed Outstanding for purposes of calculating the Principal and Interest Requirements until the Crossover Date (as defined in Section 6.01(E)(1)).

Principal Payment Date shall mean the Stated Maturity of principal of any Serial Bond and the Sinking Fund Payment Date for any Term Bond.

Program shall mean the Drinking Water State Revolving Fund Program established by the State Act.

Project shall mean an improvement, betterment, reconstruction or extension of the System, including the 2000 Project.

Public Entity shall mean a State agency, city, municipality, irrigation district, county water and sewer district, a soil conservation district 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.

Rebate Account shall mean the account created by Section 7.09.

Rebate Certificate shall mean, with respect to a Series of Bonds, a certificate delivered by the City on the day of issuance of such Bonds pursuant to which the City represents and covenants to segregate funds, calculate amounts, report and pay to the United States Department of Treasury any rebatable arbitrage relating to the Bonds of any Series in accordance with the requirements of Section 148 of the Code and the regulations promulgated thereunder.

Redemption Date when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed pursuant hereto.

Redemption Price when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed pursuant hereto.

Registrar shall mean the Person or Persons designated by or pursuant to this Resolution to receive and disburse the principal of, premium, if any, and interest on the Bonds on behalf of the City and to hold and maintain the Bond Register in accordance with Section 2.07 or 5.21.

Regulations shall mean the regulations (whether proposed, temporary or final) promulgated by the Department of Treasury under the Code and applicable to any Bonds.

Repair and Replacement Account shall mean the account created by Section 7.07.

Reserve Account shall mean the account created by Section 7.05.

Reserve Requirement shall mean, as of the date of reference, an amount equal to the maximum amount of Principal and Interest Requirements on all Outstanding Bonds in the then current or any future Fiscal Year; provided that if Additional Bonds are issued to refund any Outstanding Bonds and a crossover refunding escrow is established from proceeds thereof as contemplated in Section 6.01(E)(1), then such Additional Bonds shall not be deemed Outstanding for purposes of the Reserve Requirement until the Crossover Date (as defined in Section 6.01(E)(1)).

Reserved Amounts shall mean any undisbursed Committed Amount which will or may be required to pay any remaining costs of the 2000 Project upon completion thereof as provided in Section 5.18(a) of this Resolution.

Resolution shall mean this Resolution, as amended and supplemented from time to time by any Supplemental Resolution.

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

Safe Drinking Water Act shall mean Title XIV of the Public Health Service Act, commonly known as the Safe Drinking Water Act, 42 U.S.C. §§300f et seq., as amended, and all regulations, rules and interpretations issued by the EPA thereunder.

Serial Bonds shall mean Bonds which are not Term Bonds.

Series 1992 Bonds shall mean the Water and Sanitary Sewerage System Revenue Bonds, Series 1992, issued by the City, in the original principal amount of \$22,295,000.

Series 1996 Bonds shall mean the Water and Sanitary Sewerage System Revenue Bonds, Series 1996, issued by the City, in the original principal amount of \$2,500,000.

Series 2000 Bond shall mean the City's Amended and Restated Water System Revenue Bond (DNRC Drinking Water Revolving Loan Program), Series 2000, issued, as amended and restated, in the maximum authorized principal amount of \$3,000,000 pursuant to this Resolution.

Series 2002A Bonds shall mean the City's Water System Revenue Refunding Bonds, Series 2002A, issued in the original principal amount of \$8,030,000 pursuant to this Resolution.

Sinking Fund Payment Date shall mean one of the dates set forth in any applicable provisions of a Supplemental Resolution (as to any Series of Additional Bonds) for the making of mandatory principal payments for Additional Bonds which are Term Bonds.

State shall mean the State of Montana.

State Act shall mean Montana Code Annotated, Title 75, Part 6, Chapter 2, as amended from time to time.

State Bonds shall mean the State's General Obligation Bonds (Drinking Water State Revolving Fund Program), Series 2000A, issued pursuant to the Indenture.

Stated Maturity when used with respect to any Bond or any installment of interest thereon shall mean the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

Subordinate Obligations shall mean bonds or other obligations of the City payable from the Subordinate Obligations Account and issued in accordance with the provisions of Section 6.02.

Subordinate Obligations Account shall mean the account so named created by Section 7.06.

Supplemental Resolution shall mean any City Resolution amendatory of or supplemental to this Resolution adopted pursuant to Article IX or authorizing the issuance of Additional Bonds or Subordinate Obligations pursuant to Article VI.

System shall mean the City's municipal water system, as it may at any time exist, including any replacement, expansion and improvement thereof.

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

Trustee shall mean U.S. Bank National Association, successor by merger to U.S. Bank Trust National Association MT, or any successor trustee under the Indenture.

2000 Project shall mean the costs of designing and engineering, and the costs of the facilities, improvements and activities financed, refinanced or the cost of which is being reimbursed to the City with proceeds of the Loan, described in Exhibit B hereto.

Water System Fund shall mean the fund created in Section 7.01 of this Resolution.

Section 1.02. Rules of Interpretation.

A. All references in this Resolution to designated "Articles," "Sections" and other subdivisions are to the designated Articles, Sections and other subdivisions of this Resolution as originally adopted.

B. The words "herein", "hereof" and "hereunder" and other words of similar import without reference to any particular Article, Section or subdivision refer to this Resolution as a whole and not to any particular Article, Section or other subdivision unless the context clearly indicates otherwise.

C. The terms defined in this Article I shall include the plural as well as the singular.

D. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities.

E. All computations provided herein shall be made in accordance with generally accepted accounting principles applicable to governmental entities consistently applied.

F. "Or" is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

Section 1.03. Authorization. Under the Act, the City 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 a water system; provided that the bonds and the interest thereon are to be payable solely out of the income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such water system, and are not to create any obligation of the City for the payment of which taxes may be levied except to pay for services provided by the water system to the City.

Section 1.04. Recitals. The City has heretofore operated and maintained a combined water system and sanitary sewerage system (the “Combined System”) pursuant to Ordinance No. 2623 of the City, as amended and supplemented, and has issued under the Act the Series 1992 Bonds, currently outstanding in the aggregate principal amount of \$12,905,000, its Series 1996 Bonds, currently outstanding in the aggregate principal amount of \$2,100,000, and the DNRC Bond, issued in the maximum authorized principal amount of \$3,000,000, to finance the acquisition, purchase, construction, reconstruction, improvement, betterment or extension of the Combined System. No other bonds or indebtedness are outstanding that are payable from the revenues of the Combined System.

Pursuant to Resolution No. 9216 adopted by the Commission on February 19, 2002, the City has determined it necessary and expedient to separate the Combined System into a separate water system (the System) and a sanitary sewerage system (the “Sanitary Sewerage System”) and to effect the separation of the systems by refunding or amending all outstanding bonds payable from the revenues therefrom. To this end, the City has determined it necessary to issue the Series 2002A Bonds and use the proceeds thereof, with other available funds of the System, to refund certain of the outstanding Series 1992 Bonds and all outstanding Series 1996 Bonds, as follows: the Series 1992 Bonds allocable to the System (of the outstanding Series 1992 Bonds, \$6,362,559 in principal amount), that mature in the years 2002 through 2012 (the “Refunded 1992 Bonds”), and all outstanding Series 1996 Bonds, since the Series 1996 financed improvements solely to the System, which bonds mature in the years 2002 through 2012 (the “Refunded 1996 Bonds”). It is hereby determined that it is necessary to issue the Series 2002A Bonds in the aggregate principal amount of \$8,030,000 to provide sufficient funds to refund the Refunded 1992 Bonds and the Refunded Series 1996 Bonds (collectively, the “Refunded Bonds,”) including costs incidental to the issuance and sale of the Series 2002A Bonds.

It is further necessary to amend and restate the City’s outstanding DNRC Bond, which was issued pursuant to Ordinance Nos. 2623 and 2789 of the City and payable from and secured by the net revenues of the Combined System. The DNRC is the holder of the DNRC Bond. The City has proposed to the DNRC that the City amend and restate the DNRC Bond and the security provisions relating thereto to effect the separation of the Combined System into the System and the Sanitary Sewerage System. The proceeds of the DNRC Bond have been and are to be applied solely to improvements to the System. The DNRC has advised the City that it will consent to such amendment and will exchange the outstanding DNRC Bond for the Series 2000 Bond, on the same payment terms, but issued under and secured by this Resolution.

After the refunding of the Refunded Bonds and amendment of the DNRC Bond, only the Series 2000 Bond and Series 2002A Bonds will remain outstanding and be payable from or secured by the Revenues.

Section 1.05. Findings and Determinations. It is hereby found, determined and declared by this Commission as follows:

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

(b) The City is authorized under the Act 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 payment of the Bonds the revenues to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired.

(c) The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2000 Bond and the Series 2002A Bonds will be sufficient to pay the principal of and interest when due on the Series 2000 Bond and the Series 2002A Bonds, to create and maintain reasonable reserves therefor, to pay the reasonable and ordinary costs of operating and maintaining the System and to provide an adequate allowance for replacement and repair, as herein prescribed.

(d) It is in the best interests of the City and its residents to issue and sell the Series 2002A Bonds to refund the Refunded Bonds and to amend the terms of the DNRC Bond as provided in this Resolution.

Section 1.06. Recitals. All acts, conditions and things required by the Constitution and laws of the State to be done, to exist, to happen and to be performed prior to the issuance of the Series 2002A Bonds have been done, do exist, have happened, and have been performed in due time, form and manner, wherefore it is now necessary for this Commission to establish the form and terms of the Series 2002A Bonds, to provide for the security thereof and to issue the Series 2002A Bonds forthwith

Section 1.07. Exhibits. Attached to this Resolution and hereby made a part hereof are the following Exhibits:

Exhibit A: the form of the Series 2002A Bonds;

Exhibit B: a description of the 2000 Project;

Exhibit C: the form of the Series 2000 Bond; and

Exhibit D: additional agreements and representations, if any, of the City in respect of the Series 2000 Bond.

## ARTICLE II

### THE BONDS

Section 2.01. General Title. The general title of the Bonds of all Series shall be “Water System Revenue Bonds.” Bonds of each Series shall be titled so as to distinguish them from Bonds of all other series.

Section 2.02. General Limitations: Issuable in Series. The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Resolution is not limited, except as provided in Article VI and except as may be limited by law.

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

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

If the Stated Maturity for the payment of any interest on or principal of any Bond or if any Redemption Date or Sinking Fund Payment Date shall be a day which is not a Business Day, then such payment may be made on the next succeeding Business Day, with the same force and effect as if made on such Stated Maturity, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

Section 2.03. Terms of Particular Series. Each Series of Bonds (except the Series 2002A Bonds and the Series 2000 Bond, which are created by Articles IV and V, respectively) shall be created by a Supplemental Resolution. The Bonds of each Series (other than the Series 2002A Bonds, as to which specific provision is made in this Resolution) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, shall be payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Resolution creating that series, all upon such terms as the City may determine. The City may, at the time of the creation of any Series of Bonds or at any time thereafter, make, and the Bonds of that Series may contain provision for:

- A. a sinking, amortization, improvement or other analogous fund;
- B. limiting the aggregate principal amount of the Bonds of that Series and of Additional Bonds thereafter to be issued;
- C. exchanging Bonds of that series, at the option of the Holders thereof, for other Bonds of the same Series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations; or
- D. registration, transfer and delivery.

Section 2.04. Form and Denominations of Particular Series. The form of the Bonds of each Series (other than the Series 2002A Bonds and the Series 2000 Bond, as to which specific provisions are made in Sections 4.01 and 5.23, respectively) shall be established by the provisions of the Supplemental Resolution creating such series. The Bonds of each Series shall be distinguished from the Bonds of other Series in such manner as the Commission may determine.

The Bonds of each Series shall be in such denominations as shall be provided in the Supplemental Resolution creating such Series (other than the Series 2002A Bonds and the Series 2000 Bond, as to which specific provisions are made in this Resolution). In the absence of any such provision with respect to the Bonds of any particular series, the Bonds of such Series shall be in the denomination of \$5,000 or any integral multiple thereof of single maturities.

Section 2.05. Execution and Authentication. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor, City Manager and City Controller (or other officers of the City authorized by proceedings of the Commission); provided, that if required by applicable laws, one such signature on each Bond shall be a manual signature. The seal of the City need not be imprinted on or affixed to any Bond. Any Bond bearing the manual or facsimile signature of an individual who was at any time an appropriate officer of the City shall be valid and sufficient for all purposes, regardless of whether such individual held such office as of the date of sale, issue or delivery of such Bond. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on each Bond need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution and in accordance with the provisions hereof.

Section 2.06. Temporary Bonds. Pending the preparation of definitive Bonds, the City, if authorized by law, may execute and deliver temporary Bonds which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive Bonds in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such Bonds may determine, as evidenced by their signing of such Bonds.

If temporary Bonds are issued, the City will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Bonds the City shall execute and deliver in exchange therefor a like principal amount of definitive Bonds of authorized denominations. Until so exchanged the temporary Bonds shall in all respects be entitled to the same security and benefits under this Resolution as definitive Bonds.

Section 2.07. System of Registration. The City shall cause a register (the "Bond Register") for registration of Bonds and transfers of Bonds to be kept by the Registrar. Unless otherwise provided in a Supplemental Resolution in respect of a Series of Additional Bonds or in Section 5.21 in respect of the Series 2000 Bond, this Section 2.07 shall establish a system of registration for the Bonds as defined in the Model Public Obligations Registration Act of Montana, and shall govern in the event provisions of the Resolution relating to registration, transfer or exchange of Bonds are inconsistent herewith. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

- (a) Registrar. The Registrar shall keep at its operations center the Bond Register in which the Registrar shall provide for the registration of ownership of the Bonds and the



registration of transfers and exchanges of the Bonds entitled to be registered, transferred or exchanged.

(b) Transfer. Upon surrender for transfer of any Bond duly endorsed by the Holder thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Holder thereof or by an attorney duly authorized by the Holder in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of the same Series of a like aggregate principal amount and Stated Maturity as requested by the transferor. The Registrar is not required (i) to transfer or exchange any Bond during the period of fifteen days immediately preceding any selection of Bonds and Stated Maturity for redemption, or (ii) to transfer or exchange any Bond or portion thereof which has been selected for redemption.

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

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

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

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

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

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

Section 2.08. Priority of Payments. Each and all of the Bonds shall be equally and ratably secured without preference or priority of any one Bond over any other by reason of serial number, date of issue, Series designation or otherwise; provided that if at any time the Net Revenues on hand in the Fund are insufficient to pay principal and interest then due on all such Bonds, any and all Net Revenues then on hand shall be first used to pay the interest accrued on all Outstanding Bonds, and the balance shall be applied toward payment of the maturing principal of such Bonds to be paid first, and pro rata in payment of Bonds maturing on the same date.

### ARTICLE III

#### AUTHORIZATION AND SALE OF THE SERIES 2002A BONDS; APPLICATION OF PROCEEDS; ESCROW AGREEMENT

Section 3.01. Authorization and Sale. Pursuant to a resolution adopted on April 16, 2002, this Commission awarded the sale of the Series 2002A Bonds in the aggregate principal amount of \$8,030,000 to D.A. Davidson & Co. (the Original Purchaser of the Series 2002A Bonds), upon the further terms and conditions contained in this Resolution, to provide funds to refund the Refunded Bonds. The debt service savings to result from the refunding of the Refunded Bonds is presently estimated to approximate \$399,063.51, calculated on a net present-value basis and using a discount rate of 4.0105% over the term of the Series 2002A Bonds. Based on the findings made in Article I, the City is authorized to issue its \$8,030,000 Water System Revenue Refunding Bonds, Series 2002A, for the purpose of providing funds to refund the Refunded Bonds.

Section 3.02. Official Statement. The Series 2002A Bonds have been offered for sale by the Original Purchaser thereof by means of an Official Statement, dated April 23, 2002, which has been filed in the office of the City Clerk (the "Official Statement"). This Commission hereby approves the Official Statement and authorizes it to be executed on behalf of the City by the Mayor and City Controller, or in their absence or disability, the acting Mayor and City Controller in substantially the form presented to this Commission, with such additions, deletions and modifications as such officer and the City Attorney may approve. Execution of the Official Statement by the appropriate officer of the City shall be conclusive as to the approval thereof by this Commission. The City hereby consents to the distribution of the Official Statement to prospective purchasers of the Series 2002A Bonds and this Commission hereby authorizes and directs the Mayor and the City Controller to execute such certificates relating to the accuracy and completeness of the Official Statement as may be appropriate.

Section 3.03. Application of Proceeds of Series 2002A Bonds. The City shall apply the proceeds of the sale of the Series 2002A Bonds as follows:

- (a) Deposit to the credit of the Debt Service Account the amount of accrued interest, if any, paid by the Original Purchaser to the date of delivery of the Series 2002A Bonds;
- (b) Apply proceeds of the Series 2002A Bonds to the extent required and as provided in Section 3.04; and

(c) Deposit to the balance of the proceeds of the Series 2002A Bonds in the Construction Account in the Water System Fund to be used to pay costs of issuance of the Series 2002A Bonds and of the refunding of the Refunded Bonds.

Section 3.04. Escrow for Refunded Bonds; Escrow Agreement. Simultaneously with the delivery of the Series 2002A Bonds, the City Controller shall deposit in escrow with U.S. Bank National Association, of Billings, Montana, \$7,874,125.29 of the proceeds of the Series 2002A Bonds, and shall also transmit to said escrow agent, from money now on hand and available therefor in the Debt Service Account in the Water and Sanitary Sewerage System Fund (including certain amounts on deposit in the Reserve Account therefor), such additional sum (approximately \$1,013,116) as may be required to provide funds for the purchase of the securities and establish the beginning cash balance described in this Section 3.04. The City Controller shall cause the amount so deposited to be invested in Government Obligations maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay the interest when due on each Refunded Bond, to pay or redeem each Refunded 1992 Bond on August 1, 2002, and to pay each Refunded 1996 Bond at its stated maturity on or before August 1, 2006, and to redeem all Refunded Series 1996 Bonds with subsequent maturities on August 1, 2006. The escrow account and all investments thereof shall be held in safekeeping by said escrow agent, and said account and all income therefrom are irrevocably appropriated for the purposes stated in this Section 3.04. At or before the time of making said deposit and investment the Mayor and the City Manager shall execute on behalf of the City an escrow agreement with said escrow agent, substantially in accordance with the form of such agreement which has been presented to this Commission at the meeting at which this Resolution was adopted, and is hereby approved.

Section 3.05. Redemption of Refunded Bonds. In accordance with the provisions of the escrow agreement approved in Section 3.04, the Series 1992 Bonds having stated maturities in 2003 and subsequent years are hereby called for redemption on August 1, 2002, at a redemption price of 102% of the principal amount thereof, plus accrued interest, and the Series 1996 Bonds having stated maturities in 2007 and later years are hereby called for redemption on August 1, 2006, at a redemption price of 102% of the principal amount thereof, plus accrued interest.

Section 3.06. Purchase of Certain Obligations. The City Controller and other officers of the City are authorized and directed to subscribe, or to authorize the Original Purchaser of the Series 2002A Bonds to subscribe, with the United States Department of the Treasury for the purchase of United States Treasury Securities-State and Local Government Series (SLGS), if and to the extent necessary to provide such securities for the escrow account described in Section 3.04, and any previous subscription for such securities is hereby ratified.

#### ARTICLE IV

##### THE SERIES 2002A BONDS

Section 4.01. Form of Series 2002A Bonds. The Series 2002A Bonds shall be prepared in substantially the form attached hereto as Exhibit A, with such appropriate variations, omissions and insertions as are permitted or required by this Resolution; provided that so long as the Series 2002A Bonds are registered in the name of CEDE & Co. as provided in Section 4.06,

such Series 2002A Bonds may provide for the payment of the Redemption Price upon the partial redemption thereof without presentation and surrender of the Series 2002A Bonds.

Section 4.02. Denominations, Stated Maturities, Interest Rates. The Water System Revenue Refunding Bonds, Series 2002A, to be issued hereunder, in the aggregate principal amount of \$8,030,000, shall be issued in fully registered form only, in the denomination of \$5,000 each or any integral multiple thereof of a Single Maturity. The Stated Maturities of the Series 2002A Serial Bonds shall be on August 1 in the years 2002 to 2016, inclusive. The Series 2002A Bonds shall bear interest from May 15, 2002, until paid or discharged at the annual rates set forth opposite the Stated Maturity of each Series 2002A Bond as follows:

<u>Maturity (August 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Maturity (August 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2002	\$ 155,000	2.00%	2010	\$700,000	4.10%
2003	1,280,000	2.10	2011	730,000	4.20
2004	570,000	2.60	2012	765,000	4.30
2005	585,000	3.10	2013	165,000	4.40
2006	600,000	3.40	2014	170,000	4.50
2007	620,000	3.65	2015	180,000	4.60
2008	650,000	3.85	2016	185,000	4.70
2009	675,000	4.00			

Ownership of the Series 2002A Bonds shall be transferred only upon the bond register of the City hereinafter described. Principal of and interest on the Series 2002A Bonds are payable in lawful money of the United States of America. Principal and premium, if any, shall be payable by check or draft drawn on the Registrar hereinafter described upon presentation and surrender of the Series 2002A Bonds at maturity or upon redemption at the operations center of the Registrar. Interest on the Series 2002A Bonds shall be payable on February 1 and August 1 in each year, commencing August 1, 2002, by check or draft of the Registrar mailed to the owners of record thereof as such appear in the bond register as of the close of business on the 15th day of the immediately preceding month, whether or not such day is a business day. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

Each Series 2002A Bond shall bear an original issue date as of May 15, 2002. Upon delivery of the Series 2002A Bonds to the Original Purchaser thereof pursuant to Section 4.04 or upon the delivery of Series 2002A Bonds upon a transfer or exchange pursuant to Section 5.01, the Registrar shall date each such Series 2002A Bond so delivered as of the date of its authentication.

Section 4.03. Redemption.

(a) Optional Redemption. The Series 2002A Bonds with Stated Maturities in the years 2002 through 2009 shall not be subject to redemption. Series 2002A Bonds with Stated Maturities in 2010 and later years shall each be subject to redemption at the option of the City, in whole or in part, in inverse order of maturities and in \$5,000 principal amounts selected by the Registrar by lot or other manner deemed fair within a maturity, on August 1, 2009, and any day thereafter, at a redemption price equal to the principal amount of the Series 2002A Bonds to be redeemed, together with interest accrued on the principal amount to be redeemed to the date fixed for redemption, without premium.

(b) Notice of Redemption. Notice of redemption, stating the amount, the serial numbers, the Stated Maturities, the CUSIP numbers and the interest rates of the Series 2002A Bonds or portions thereof called for redemption, shall be mailed by the City Controller to the Registrar, if it is other than the

City Controller, and to the registered owner of each Series 2002A Bond to be redeemed at his address shown in the bond register, not less than thirty (30) days nor more than sixty (60) days before the redemption date therefor; provided that any defect in or failure to give such mailed notice shall not affect the validity of proceedings for the redemption of any Series 2002A Bond not affected thereby. Notice of the call of any Series 2002A Bond for redemption having been mailed as herein provided, and funds sufficient for the payment thereof with accrued interest having been deposited with the Registrar on or before the redemption date, interest on such Series 2002A Bond shall cease to accrue on said date, and the Holder shall have no further rights with respect thereto or under the Resolution except to receive the redemption price so deposited.

The City may provide that, if at the time of mailing of notice of an optional redemption there shall not have been deposited with the Registrar money sufficient to redeem all the Series 2002A Bonds called for redemption, such notice may state that it is conditional, that is, subject to the deposit of the redemption money with the Registrar not later than the opening of business five Business Days prior to the scheduled Redemption date, and such notice shall be of no effect unless such money is so deposited. In the event sufficient money is not on deposit on the required date, then the redemption shall be cancelled and on such cancellation date notice shall be mailed to the Holders of such Series 2002A Bonds to be redeemed in the manner provided in this Section 4.03.

In addition to the notice prescribed by the second immediately preceding paragraph, the City Controller shall also give, or cause the Registrar to give, notice of the redemption of any Series 2002A Bond or Bonds or portions thereof at least 35 days before the redemption date by certified mail, telecopy or express delivery service to the Original Purchaser of the Series 2002A Bonds and all registered securities depositories then in the business of holding substantial amounts of obligations of the character of the Bonds (such depository now being The Depository Trust Company, of New York, New York) and the one or more national information services that disseminate information regarding municipal bond redemptions; provided that any defect in or any failure to give any notice of redemption prescribed by this paragraph shall not affect the validity of the proceedings for the redemption of any Series 2002A Bond or portion thereof.

Series 2002A Bonds in a denomination larger than \$5,000 may be redeemed in part in any integral multiple of \$5,000. The owner of any Series 2002A Bond redeemed in part shall receive, upon surrender of such Bond to the Registrar, one or more new Series 2002A Bonds in authorized denominations equal in principal amount to the unredeemed portion of the Bond so surrendered.

Section 4.04. Execution and Delivery. The Series 2002A Bonds shall be forthwith prepared for execution under the direction of the City Clerk, at the expense of the City, and shall be executed on behalf of the City by the signatures of the Mayor, the City Manager and the City Controller; provided that said signatures may be printed, engraved or lithographed facsimiles thereof. When the Series 2002A Bonds have been fully executed and authenticated, they shall be delivered by the Registrar to the Original Purchaser thereof upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser thereof shall not be obligated to see to the application of the purchase price.

Section 4.05. Transcript Certification. The officers of the City are directed to furnish to the Original Purchaser of the Series 2002A Bonds and bond counsel certified copies of all proceedings and information in their official records relevant to the authorization, sale, execution and issuance of the Series 2002A Bonds, and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and security of the Series 2002A Bonds, and all such certified copies,

certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

Section 4.06. Securities Depository.

(a) For purposes of this Section 4.06, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2002A Bond, the Person in whose name such Series 2002A Bond is recorded as the beneficial owner of such Series 2002A Bond by a Participant on the records of such Participant, or such Person=s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2002A Bonds.

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

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2002A Bonds as securities depository.

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

(b) The Series 2002A Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2002A Bond shall be issued in the principal amount of each Stated Maturity of the Series 2002A Bonds. Upon initial issuance, the ownership of such Series 2002A Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2002A Bonds registered in its name for the purposes of payment of the principal of, premium, if any, or interest on the Series 2002A Bonds, selecting the Series 2002A Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2002A Bonds under this Resolution, registering the transfer of Series 2002A Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series 2002A Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Series 2002A Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of, premium, if any, or interest on the Series 2002A Bonds, with respect to any notice which is permitted or required to be given to owners of Series 2002ABonds under this resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2002A Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2002A Bonds. So long as any Series 2002A Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of, premium, if any, and interest on such Series 2002A Bond, and shall give all notices with respect to such Series 2002A Bond, only to Cede & Co. in accordance with DTC’s Operational Arrangements, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of and interest on the Series 2002A Bonds to the extent of the sum or sums so paid. No

Person other than DTC shall receive an authenticated Series 2002A Bond for each separate Stated Maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2002A Bonds will be transferable to such new nominee in accordance with paragraph (e) of this Section 4.06.

(c) In the event the City determines to discontinue the book-entry system through DTC for the Series 2002A Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2002A Bonds in the form of certificates. In such event, the Series 2002A Bonds will be transferable in accordance with paragraph (e) of this Section 4.06. DTC may determine to discontinue providing its services with respect to the Series 2002A Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2002A Bonds will be transferable in accordance with paragraph (e) of this Section 4.06.

(d) The execution and delivery of the Representation Letter to DTC, if not previously filed with DTC, by the Mayor or City Manager is hereby authorized and directed.

(e) In the event that any transfer or exchange of Series 2002ABonds is permitted under paragraph (b) or (c) of this Section 4.06, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2002ABonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2002ABonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2002ABonds, or another securities depository as owner of all the Series 2002ABonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2002ABonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2002ABonds in the form of bond certificates.

#### Section 4.07. Provisions Relating to Bond Insurance.

(a) Definitions Relating to Bond Insurance. The following terms shall have the meanings set forth below when used in this Resolution in respect of the Series 2002A Bonds:

Ambac Assurance shall mean Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company.

Financial Guaranty Insurance Policy shall mean the financial guaranty insurance policy issued by Ambac Assurance insuring the payment when due of the principal of and interest on the Series 2002A Bonds as provided therein.

(b) Consent of Ambac Assurance. Any provision of this Resolution expressly recognizing or granting rights in or to Ambac Assurance may not be amended in any manner which affects the rights of Ambac Assurance hereunder without the prior written consent of Ambac Assurance.

(c) Consent of Ambac Assurance in Addition to Bondholder Consent. So long as any Series 2002A Bonds are outstanding, unless otherwise provided in this Section 4.07, Ambac Assurance's consent shall be required in addition to Bondholder consent, when required, for the following purposes: (i) execution and delivery of any Supplemental Resolution or any amendment, supplement or change to or modification of this Resolution; (ii) removal of the

Registrar and selection and appointment of any successor Registrar; and (iii) initiation or approval of any action not described in (i) or (ii) above which requires Bondholder consent.

(d) Consent of Ambac Assurance in the Event of Insolvency. So long as any Series 2002A Bonds are outstanding, any reorganization or liquidation plan with respect to the City must be acceptable to Ambac Assurance. In the event of any reorganization or liquidation, Ambac Assurance shall have the right to vote on behalf of all Holders of Series 2002A Bonds absent a default by Ambac Assurance under the Financial Guaranty Insurance Policy.

(e) Rights of Ambac Assurance Upon Default. Anything in this Resolution to the contrary notwithstanding, upon the occurrence and continuance of a default hereunder, Ambac Assurance shall be entitled to control and direct the enforcement of all rights and remedies granted to the Holders of the Series 2002A Bonds or the Registrar for the benefit of the Holders of the Series 2002A Bonds under this Resolution pursuant to Montana law, unless Ambac Assurance is then in default under the Financial Guaranty Insurance Policy.

(f) Notice to Ambac Assurance. While the Financial Guaranty Insurance Policy is in effect, the City shall furnish to Ambac Assurance (to the attention of the Surveillance Department, unless otherwise indicated):

(1) as soon as practicable after the filing thereof, a copy of any financial statement of the City and a copy of any audit and annual report of the City at no cost to Ambac Assurance;

(2) a copy of any notice to be given to the Holders of the Series 2002A Bonds, including, without limitation, notice of any redemption of or defeasance of Series 2002A Bonds, and any certificate rendered pursuant to this Resolution relating to the security for the Series 2002A Bonds, at no cost to Ambac Assurance;

(3) such additional information as Ambac Assurance may reasonably request; and

(4) the City shall notify Ambac Assurance of any failure of the City to provide relevant notices, certificates, etc.

(g) Books and Records. So long as any Series 2002B Bonds are outstanding, the City will permit Ambac Assurance to discuss the affairs, finances and accounts of the City or any information Ambac Assurance may reasonably request regarding the security for the Series 2002A Bonds with appropriate officers of the City. The City will permit Ambac Assurance to have access to the System and have access to and to make copies of all books and records relating to the Series 2002A Bonds at any reasonable time.

(h) Right to Direct an Accounting. So long as any Series 2002B Bonds are outstanding, Ambac Assurance shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within thirty (30) days after receipt of written notice of the direction from Ambac Assurance shall be deemed a default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any Holder of the Series 2002A Bonds.



(i) Insufficient Funds or Default Notification. Notwithstanding any other provision of this Resolution, the City shall immediately notify Ambac Assurance if at any time there are insufficient moneys to make any payments of principal and/or interest as required on the Series 2002A Bonds and immediately upon the occurrence of any default hereunder.

(j) Payment Procedure Pursuant to the Financial Guaranty Insurance Policy. As long as the Financial Guaranty Insurance Policy shall be in full force and effect, the City and the Registrar agree to comply with the following provisions:

(1) At least one (1) day prior to all Interest Payment Dates the City will determine whether there will be sufficient funds in the Funds and Accounts to pay the principal of or interest on the Series 2002A Bonds on such Interest Payment Date. If the City determines that there will be insufficient funds in such Funds or Accounts, the City shall so notify the Registrar and the Registrar shall immediately notify Ambac Assurance. Such notice shall specify the amount of the anticipated deficiency, the Series 2002A Bonds to which such deficiency is applicable and whether such Series 2002A Bonds will be deficient as to principal or interest, or both. If the Registrar has not so notified Ambac Assurance at least one (1) day prior to an Interest Payment Date, Ambac Assurance will make payments of principal or interest due on the Bonds on or before the first (1st) day next following the date on which Ambac Assurance shall have received notice of nonpayment from the Registrar.

(2) The Registrar shall after giving notice to Ambac Assurance as provided in (1) above, make available to Ambac Assurance and at Ambac Assurance's direction, to The Bank of New York, as insurance trustee for Ambac Assurance or any successor insurance trustee (the "Insurance Trustee"), the registration books of the City maintained by the Registrar, if any, and all records relating to the Funds and Accounts maintained under this Resolution.

(3) The Registrar shall provide Ambac Assurance and the Insurance Trustee with a list of registered owners of Series 2002A Bonds entitled to receive principal or interest payments from Ambac Assurance under the terms of the Financial Guaranty Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Series 2002A Bonds entitled to receive full or partial interest payments from Ambac Assurance and (ii) to pay principal upon Series 2002A Bonds surrendered to the Insurance Trustee by the registered owners of Series 2002A Bonds entitled to receive full or partial principal payments from Ambac Assurance.

(4) The Registrar shall, at the time it provides notice to Ambac Assurance pursuant to (a) above, notify registered owners of Series 2002A Bonds entitled to receive the payment of principal or interest thereon from Ambac Assurance (i) as to the fact of such entitlement, (ii) that Ambac Assurance will remit to them all or a part of the interest payments next coming due upon proof of Bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from Ambac Assurance, they must surrender their Series 2002A Bonds (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of

such Series 2002A Bonds to be registered in the name of Ambac Assurance) for payment to the Insurance Trustee, and not the Registrar, if any, and (iv) that should they be entitled to receive partial payment of principal from Ambac Assurance, they must surrender their Series 2002A Bonds for payment thereon first to the Registrar, if any, who shall note on such Series 2002A Bonds the portion of the principal paid by the Registrar, if any, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(5) In the event that the Registrar has notice that any payment of principal of or interest on a Series 2002A Bond which has become Due for Payment and which is made to a Bondholder by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Registrar shall at the time Ambac Assurance is notified pursuant to (1) above, notify all registered owners of Series 2002A Bonds that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from Ambac Assurance to the extent of such recovery if sufficient funds are not otherwise available, and the Registrar, if any, shall furnish to Ambac Assurance its records evidencing the payments of principal of and interest on the Series 2002A Bonds which have been made by the Registrar, if any, and subsequently recovered from registered owners and the dates on which such payments were made.

(6) In addition to those rights granted Ambac Assurance under this Resolution, Ambac Assurance shall, to the extent it makes payment of principal of or interest on Series 2002A Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Financial Guaranty Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Registrar, if any, shall note Ambac Assurance's rights as subrogee on the registration books of the City maintained by the Registrar, if any, upon receipt from Ambac Assurance of proof of the payment of interest thereon to the registered owners of the Series 2002A Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Registrar, if any, shall note Ambac Assurance's rights as subrogee on the registration books of the City maintained by the Registrar, if any, upon surrender of the Series 2002A Bonds by the registered owners thereof together with proof of the payment of principal thereof.

(k) Ambac Assurance as Third Party Beneficiary. To the extent that this Resolution confers upon or gives or grants to Ambac Assurance any right, remedy or claim under or by reason of this Resolution, Ambac Assurance is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

(l) Parties Interested Herein. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon or to give or grant to, any person or entity, other than the City, Ambac Assurance, the Registrar and the registered owners of the Bonds any right, remedy or claim under or by reason of this Resolution or any covenant, condition or stipulation

hereof, and all covenants, stipulations, promises and agreements in this Resolution contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, Ambac Assurance, the Registrar and the registered owners of the Bonds.

Section 4.08. Registrar for the Series 2002A Bonds. The City hereby appoints U.S. Bank National Association in Billings, Montana, as the Registrar for the Series 2002A Bonds. The City reserves the right, with the written consent of Ambac Assurance, to appoint a suitable bank, trust company or financial institution, whether within or without the State or the City Controller of the City as successor Registrar. In such event, upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar; provided that no resignation or removal of the Registrar shall become effective until Ambac Assurance has received prior written notice and a successor has been appointed and has accepted the duties of Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove any Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Series 2002A Bonds in its possession to the successor Registrar and shall deliver the Bond Register to the successor Registrar. On or before each Principal Payment Date and Interest Payment Date, without further order of the Commission, the City Controller shall transmit to the Registrar, if other than the City Controller, solely from money in the Debt Service Account, money sufficient for the payment of all principal and interest then due on the Series 2002A Bonds.

## ARTICLE V

### THE LOAN; REPAYMENT; REPRESENTATIONS AND COVENANTS; THE SERIES 2000 BOND

Section 5.01. The Loan; Disbursement of Loan. The DNRC has agreed to lend to the City, from time to time as the requirements of this Section 5.01 are met, an amount up to \$3,000,000 (the "Committed Amount") for the purposes of financing, refinancing or reimbursing the City for the costs of the 2000 Project; provided the DNRC shall not be required to loan any proceeds of the State Bonds to the City after December 31, 2002. The Committed Amount may be reduced as provided in Sections 5.16 and 5.18. The Loan shall be disbursed as provided in this Section 5.01. The DNRC intends to disburse the Loan through the Trustee.

(a) In consideration of the issuance of the Series 2000 Bond by the City, the DNRC shall make, or cause the Trustee to make, a disbursement of all or a portion of the Loan upon receipt of the following documents:

- (1) an Opinion of Bond Counsel as to the validity and enforceability of the Series 2000 Bond and the security therefor and stating in effect that interest on the Series 2000 Bond is not includable in gross income for purposes of federal income taxation, in form and substance satisfactory to the DNRC;
- (2) the Series 2000 Bond, fully executed and authenticated;
- (3) a certified copy of this Resolution;

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

(5) if all or part of a Loan is being made to refinance a Project or reimburse the City for the costs of a Project paid prior to the Closing, evidence, satisfactory to the DNRC and the Bond Counsel referred to in (1) above, (A) that the acquisition or construction of the Project was begun no earlier than June 1, 1993 or the debt was incurred no earlier than June 1, 1993, (B) of the City's title to the Project, (C) of the costs of such Project and that such costs have been paid by the City and (D) if such costs were paid before adoption of Ordinance No. 2789 that the City has complied with Section 1.150-2 of the Regulations;

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

(7) payment or provision for payment of the Administrative Fee and the Origination Fee; and

(8) 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).

(b) In order to obtain a disbursement of a portion of the Loan to pay costs of the 2000 Project, the City 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 City may obtain disbursements only for costs which have been legally incurred and are due and payable. All Loan disbursements will be made to the City only upon proof that cost was incurred.

(c) On the date of Closing, the Trustee is authorized to make an initial disbursement of the Loan in an amount sufficient to pay the Administration Fee and the Origination Fee. The DNRC will retain, and not physically advance to the City, an amount equal to the sum of Administration Fee and the Origination Fee, and the City acknowledges and agrees that such retainage constitutes a disbursement of proceeds of the Loan in an amount equal to the amount retained by the DNRC.

(d) For refinancings, a disbursement schedule complying with the requirements of the Safe Drinking Water Act shall be established by the DNRC and the City at Closing. The Trustee shall disburse Loan amounts directly to the holder of the debt being refinanced according to such schedule. If the City should repay all or a portion of the debt to be refinanced from other sources or should otherwise not need any portion of the Loan which was to have been used to refinance such debt, it shall inform the DNRC and the Trustee of such fact pursuant to Section 5.18(b) and a new disbursement schedule shall be drawn up by the DNRC. The DNRC shall obtain a receipt from the holder of the debt being refinanced for each disbursement made to pay or prepay a portion of such debt.

(e) If all or a portion of a Loan is made to reimburse a City for Project costs paid by it prior to Closing, the City shall present at Closing the items required by Section 5.01(b) relating to such costs. The Trustee shall disburse such amounts to the City pursuant to a disbursement

schedule complying with the requirements of the Safe Drinking Water Act established by the DNRC and the City at the Closing.

(f) Notwithstanding anything else provided herein, the Trustee shall not be obligated to disburse the Loan 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 City acknowledges that if Project costs are incurred faster than the City 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 best efforts to obtain an acceleration of such schedule if necessary.

(g) Upon making each Loan disbursement, the Trustee is to note such disbursement on Schedule A to the Series 2000 Bond.

(h) The City agrees that it will deposit in the Reserve Account upon receipt any proceeds of the Loan borrowed for the purpose of causing the balance in the Reserve Account to equal the Reserve Requirement, either on the Closing Date of the Loan or upon any disbursement date. The City further acknowledges and agrees that any portions of the Loan representing capitalized interest shall be advanced only on Payment Dates and shall be transferred by the Trustee on the Payment Date directly to the Debt Service Account. The amount of any such transfer shall be a credit against the interest payments due on the Series 2000 Bond and interest thereon shall accrue only from the date of transfer.

(i) Compliance by the City with its representations, covenants and agreements contained in this Resolution 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 5.02. Commencement of Loan Term. The City’s obligations under this Resolution shall commence on the date hereof unless otherwise provided in this Resolution. However, the obligation to make payments under this Article V shall commence only upon the first disbursement by the Trustee of Loan proceeds.

Section 5.03. Termination of Loan Term. The City’s obligations under this Resolution in respect of the Series 2000 Bond shall terminate upon payment in full of all amounts due under the Series 2000 Bond and this Resolution in respect thereof; provided, however, that the covenants and obligations provided in Article VII and Section 11.04 of this Resolution shall survive the termination of this Resolution.

Section 5.04. Loan Closing Submissions. On or prior to the Closing, the City will have delivered to the DNRC and the Trustee the closing submissions required by Section 7.05 of the Indenture.

Section 5.05. Repayment of Loan. The City shall repay the amounts lent to it pursuant to Section 5.01, plus interest on the unpaid amounts lent at the rate of two and twenty-five hundredths percent (2.25%) per annum, in semiannual Loan Repayments. In addition, the City shall pay an Administrative Expense Surcharge on the outstanding principal amount of the Loan

at the rate of seventy-five hundredths of one percent (0.75%) per annum and a Loan Loss Reserve Surcharge equal to one percent (1.00%) per annum on the outstanding principal amount of the Loan. For purposes of this Resolution and the Program, the term “interest” on the Loan shall include the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge. The City shall pay all Loan Repayments and Administrative Expense Surcharge and Loan Loss Reserve Surcharge in lawful money of the United States of America to the DNRC from the Water System Fund. Interest and 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.

The Loan Repayments required by this Section 5.05, and the Administrative Expense Surcharge and the Loan Loss Reserve Surcharge, shall be due on each January 1 and July 1 (the “Payment Dates”), as follows:

(1) interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the outstanding principal balance of the Loan shall be payable on each January 1 and July 1, beginning on the first Payment Date after the closing of the Loan (unless the Loan is closed within 30 days of the first Payment Date in which case payments shall begin on the next succeeding payment date; and

(2) the principal of the Loan shall be repayable on each Payment Date, beginning on July 1, 2001 and concluding on January 1, 2021, and the amount of each principal payment shall be calculated on the basis of level debt service at an interest rate of 4.00% per annum; provided that principal of the Loan is payable only in amounts that are multiples of \$1,000.

The payments of principal of and interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on the Loan shall be due on the dates and in the amounts shown in Schedule B to the Series 2000 Bond, as such Schedule B shall be modified from time to time as provided below. The portion of each such Loan Repayment consisting of principal and the portion consisting of interest and the amount of each Administrative Expense Surcharge and the amount of each Loan Loss Reserve Surcharge shall be set forth in Schedule B to the Series 2000 Bond. Upon each disbursement of Loan amounts to the City pursuant to Section 5.01, the Trustee shall enter or cause to be entered the amount advanced on Schedule A to the Series 2000 Bond under “Advances” and the total amount advanced under Section 5.01, including such disbursement, under “Total Amount Advanced.”

If the advance was made to pay costs of the 2000 Project pursuant to Section 5.01, interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge on such advance shall accrue from the date the advance is made and shall be payable on each Payment Date thereafter. Once the completion certificate for the 2000 Project has been delivered to the DNRC, the Trustee shall revise Schedule B to the Series 2000 Bond in accordance with this Section 5.05 and the Trustee shall send a copy of such Schedule B to the City within one month after delivery of the completion certificate.

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

Any payment of principal, interest or Administrative Expense Surcharge and Loan Loss Reserve Surcharge under this Section 5.05 shall also be credited against the same payment obligation under the Series 2000 Bond.

Section 5.06. Additional Payments. The City shall also pay, within 30 days after receipt of a bill therefor, from any legally available funds therefor, including proceeds of the Loan, if the City so chooses, all reasonable expenses of the DNRC and the Trustee in connection with the Loan and the Series 2000 Bond, including, but not limited to:

- (1) the cost of reproducing Ordinance No. 2789, this Resolution and the Series 2000 Bond;
- (2) the fees and disbursements of Bond Counsel and other counsel utilized by the DNRC and the Trustee in connection with the Loan, this Resolution and the Series 2000 Bond and the enforcement thereof; and
- (3) all taxes and other governmental charges in connection with the execution and delivery of the Series 2000 Bond, whether or not the Series 2000 Bond is then outstanding, including all recording and filing fees relating to the pledge of the State's right, title and interest in and to the Series 2000 Bond and this Resolution (and with the exceptions noted therein) and all expenses, including attorneys' fees, relating to any amendments, waivers, consents or collection or enforcement proceedings pursuant to the provisions hereof or thereof.

Section 5.07. Prepayments. The City may not prepay all or any part of the outstanding principal amount of the Series 2000 Bond unless (i) it obtains the prior written consent of the DNRC thereto, and (ii) 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 and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2000 Bond is prepaid in part pursuant to this Section 5.07, such prepayments shall be applied to principal payments in inverse order of maturity.

Section 5.08. Obligations of City Unconditional. The obligations of the City to make the payments required by this Resolution and the Series 2000 Bond and to perform its other agreements contained in this Resolution and the Series 2000 Bond shall be absolute and unconditional, except as otherwise provided herein or in such documents. The City (a) shall not suspend or discontinue any payments provided for in this Resolution and the Series 2000 Bond, (b) shall perform all its other agreements in this Resolution and the Series 2000 Bond and (c) shall not terminate this Resolution or the Series 2000 Bond for any cause, including any acts or circumstances that may constitute failure of consideration, destruction of or damage to the 2000 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 of either or any failure of the DNRC to perform any of its agreements, whether express or implied, or any duty, liability or obligation arising from or connected with this Resolution.

Section 5.09. Limited Liability. All payments of principal of and interest on the Loan and other payment obligations of the City hereunder and under the Series 2000 Bond shall be special, limited obligations of the City payable solely out of the Net Revenues and shall not, except at the option of the City and as permitted by law, be payable out of any other revenues of the City. The obligations of the City under this Resolution and the Series 2000 Bond shall never constitute an indebtedness of the City 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 City or a charge against its general credit or taxing power. The taxing powers of the City may not be used to pay principal of or interest on the Series 2000 Bond, and no funds or property of the City other than the Net Revenues may be required to be used to pay principal of or interest on the Series 2000 Bond.

Section 5.10. Representations. The City represents as follows:

(a) Organization and Authority. The City:

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

(ii) has all requisite power and authority and all necessary licenses and permits required as of the date hereof to own and operate the System and to carry on its current activities with respect to the System, to adopt this Resolution and to issue the Series 2000 Bond and to carry out and consummate all transactions contemplated by this Resolution and the Series 2000 Bond;

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

(iv) has taken all proper action to authorize the execution, delivery and performance of its obligations under this Resolution, the Series 2000 Bond and the incurrence of the Debt evidenced by the Series 2000 Bond in the maximum amount of the Committed Amount.

(b) Litigation. There is no litigation or proceeding pending, or to the knowledge of the City threatened, against or affecting the City in any court or before or by any governmental authority or arbitration board or tribunal that, if adversely determined, would materially and adversely affect the existence, corporate or otherwise, of the City, or the ability of the City to make all payments and otherwise perform its obligations under this Resolution and the Series 2000 Bond, or the financial condition of the City, or the transactions contemplated by this Resolution and the Series 2000 Bond or the validity and enforceability of this Resolution and the Series 2000 Bond. No referendum petition has been filed with respect to any Resolution or other action of the City relating to the 2000 Project or the Series 2000 Bond and the period for filing any such petition will have expired before issuance of the Series 2000 Bond.

(c) Borrowing Legal and Authorized. The adoption of this Resolution, the execution and delivery of the Series 2000 Bond and the consummation of the transactions provided for in this Resolution and the Series 2000 Bond and compliance by the City with the provisions of this Resolution and the Series 2000 Bond:

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

(ii) do not and will not result in any breach of any of the terms, conditions or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the City pursuant to any Resolution, indenture, loan agreement or other agreement or instrument (other than this Resolution) to which the City is a party or by which the City or its property may be bound, nor will such action result in any violation of the provisions of any laws,



Resolutions, governmental rules or regulations or court or other governmental orders to which the City, its properties or operations are subject.

(d) No Defaults. No event has occurred and no condition exists that, upon execution and delivery of the Series 2000 Bond, would constitute a default under this Resolution. The City is not in violation of any term of any agreement, bond resolution, trust indenture, charter or other instrument to which it is a party or by which it or its property may be bound which violation would materially and adversely affect the transactions contemplated hereby or the compliance by the City with the terms hereof or of the Series 2000 Bond.

(e) Governmental Consent. The City has obtained or made all permits, findings and approvals required to the date of adoption of this Resolution by any governmental body or officer for the making and performance by the City of its obligations under this Resolution and, the Series 2000 Bond (including any necessary water rate increase) or for the 2000 Project, the financing or refinancing thereof or the reimbursement of the City for the costs thereof. No consent, approval or authorization of, or filing, registration or qualification with, any governmental authority (other than those, if any, already obtained) is required on the part of the City as a condition to adopting this Resolution, issuing the Series 2000 Bond and the performance of the City's obligations hereunder.

(f) Binding Obligation. This Resolution and the Series 2000 Bond to which the City is a party are the valid and binding special, limited obligations and agreements of the City, enforceable against the City in accordance with their terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, moratorium, reorganization, insolvency or similar laws affecting creditors' rights and general principles of equity.

(g) The 2000 Project. The 2000 Project consists and will consist of the facilities, improvements and activities described in Exhibit B, as such Exhibit B may be amended from time to time in accordance with the provision of Sections 5.16 and 5.18. The 2000 Project comprises facilities of a type that, as determined by the EPA, will facilitate compliance with the national primary drinking water regulations applicable to the System or will otherwise significantly further the health protection objectives of the Safe Drinking Water Act.

(h) The System. The System is a "community water system" within the meaning of the Act and the Safe Drinking Water Act in that it is a public water system, comprising collection, treatment, storage and distribution facilities for the provision to the public of water for human consumption, that serves not less than 15 service connections used by year-round residents of the area served by the System or regularly serves not less than 25 year-round residents.

(i) Full Disclosure. There is no fact that the City has not specifically disclosed in writing to the DNRC that materially and adversely affects or (so far as the City can now foresee), except for pending or proposed legislation or regulations that are a matter of general public information, that will materially and adversely affect the properties, operations and finances of the System, the City's status as a Public Entity and Governmental Unit, its ability to own and operate the System in the manner it is currently operated or the City's ability to perform its obligations under this Resolution and the Series 2000 Bond and to pledge any revenues or other property pledged to the payment of the Series 2000 Bond.

(j) Compliance With Law. The City:

(1) is in compliance with all laws, Resolutions, 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 City to conduct the operation of the System as presently conducted or the condition (financial or otherwise) of the System or the City's ability to perform its obligations under this Resolution and the Series 2000 Bond.

#### Section 5.11. Covenants.

(a) Insurance. In addition to the requirements of Sections 8.03 and 8.04, the City at all times shall keep and maintain with respect to the System property and casualty insurance and liability insurance with financially sound and reputable insurers, or self-insurance as authorized by State law, against such risks and in such amounts, and with such deductible provisions, as are customary in the State in the case of entities of the same size and type as the City and similarly situated and shall carry and maintain, or cause to be carried and maintained, and pay or cause to be paid timely the premiums for all such insurance. The City shall give the DNRC prompt notice of each insurance policy it obtains or maintains to comply with this Section 5.11(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.

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

(c) Further Assurance. The City shall execute and deliver to the DNRC all such documents and instruments and do all such other acts and things as may be necessary or required by the DNRC to enable the DNRC to exercise and enforce its rights under this Resolution and the Series 2000 Bond and to realize thereon, and record and file and re-record and refile all such documents and instruments, at such time or times, in such manner and at such place or places, all as may be necessary or required by the DNRC to validate, preserve and protect the position of the DNRC under this Resolution and the Series 2000 Bond.

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

(i) The City shall, at its expense, take all necessary action to maintain and preserve the lien and security interest of this Resolution so long as any amount is owing under this Resolution to the DNRC or under the Series 2000 Bond;

(ii) The City shall forthwith, after the execution and delivery of the Series 2000 Bond and thereafter from time to time, cause this Resolution to be filed, registered and recorded in such manner and in such places as may be required by law in order to perfect and protect fully the lien and security interest hereof and thereof and the security interest in them granted by this Resolution and, from time to time, shall perform or cause to be performed any other act required by law, including executing or causing to be executed any and all required continuation statements and shall execute or cause to be executed any further instruments that may be requested by the DNRC for such perfection and protection; and

(iii) Except to the extent it is exempt therefrom, the City shall pay or cause to be paid all filing, registration and recording fees incident to such filing, registration and recording, and all expenses incident to the preparation, execution and acknowledgment of the documents described in subparagraph (ii), 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 2000 Bond and the documents described in subparagraph (ii).

(e) Additional Agreements. The City covenants to comply with all representations, covenants, conditions and agreements, if any, set forth in Exhibit D hereto.

(f) Financial Information. This Section 5.11(f) supplements, and is not intended to limit, the requirements in Section 8.06. The City 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 2000 Project shown separately; and

(2) when adopted, the final budget for the System, with items for the 2000 Project shown separately.

The City will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the 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 City in accordance with generally accepted governmental accounting practice and principles. It will cause such books to be maintained on the basis of the same fiscal year as that utilized by the City. The City shall, within 180 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 City 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 City with the provisions of this Resolution during the Fiscal Year covered thereby, including proper segregation of the capital expenditures from operating expenses, maintenance of the required balance in the Reserve Account, and receipt of Net Revenues during each fiscal year at least equal to 125% of the maximum amount of Principal and Interest Requirements on Outstanding Bonds in any subsequent Fiscal Year, or, if the report should reveal that the revenues have been insufficient for compliance with this Resolution, or that the methods used in accounting for such revenues were contrary to any provision of this Resolution, the report shall include a full explanation thereof, together with recommendations for such change in rates or accounting practices or in the operation of the System as may be required.

The City shall also have prepared and supplied to the DNRC and the DEQ, within 180 days of the close of every Fiscal Year, an audit report prepared by an independent certified public accountant or an agency of the state in accordance with generally accepted governmental accounting principles and practice with respect to the financial statements and records of the System. The audit report shall include an analysis of the City's compliance with the provisions of this Resolution.

(g) 2000 Project Accounts. The City shall maintain 2000 Project accounts in accordance with generally accepted government accounting standards.

(h) Records. After reasonable notice from the EPA or the DNRC, the City shall make available to the EPA or the DNRC such records as the EPA or the DNRC reasonably requires to review and determine compliance with the Safe Drinking Water Act, as provided in Section 75-6-224(1)(h) of the Act.

(i) Compliance with Safe Drinking Water Act. The City has complied and shall comply with all conditions and requirements of the Safe Drinking Water Act pertaining to the Loan and the 2000 Project, and shall maintain sufficient financial, managerial and technical capability to continue to effect such compliance.

(j) Compliance with DEQ Requirements. The City shall comply with plan, specification and other requirements for public water systems established by the DEQ, as required by Section 75-6-224(1)(h).

#### Section 5.12. Covenants Relating to the Tax-Exempt Status of the State Bonds.

(a) The City covenants and agrees that it will not use or permit to be used any of the proceeds of the Series 2000 Bond or any other funds of the City in respect of the 2000 Project or the Series 2000 Bond, directly or indirectly, in a manner that would cause, or take any other action that would cause, any State Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code or would otherwise cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(b) The City agrees that it will not enter into, or allow any "related person" (as defined in Section 147(a)(2) of the Code) to enter into, any arrangement, formal or informal, for the purchase of the State Bonds or any other obligations of the DNRC in an amount related to the amount of the Loan or the portion of the Loan 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 City shall not use or permit the use of the 2000 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 2000 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 City and not by any other Person. Any portion of the 2000 Project being financed shall be acquired by and shall, during the term of the Loan, be owned by the City and not by any other Person. Notwithstanding the previous two sentences, the City may transfer the 2000 Project or a portion thereof to another Governmental Unit which is also a Public Entity if such transfer is otherwise permitted under this Resolution and if such organization agrees with the DNRC to comply with Sections 5.10(h), 5.10(i) and this Section 5.12 and if the DNRC receives an opinion of Bond Counsel that such transfer will not violate the State Act or the Safe Drinking 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 this Resolution, the City may sell or otherwise dispose of any portion of the 2000 Project which has become obsolete or outmoded or is being replaced or for other reasons is not needed by the City or beneficial to the general public or necessary to carry out the purposes of the Safe Drinking Water Act.

(e) At the Closing of the 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 City instructions concerning compliance by the City with the arbitrage rebate requirements of Section 148 of the Code (the “Arbitrage Rebate Instructions”). The City 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 City agrees that during the Loan Term it will not contract with or permit any Private Person to manage the 2000 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 Safe Drinking Water Act or adversely affect the exclusion of interest on State Bonds from gross income or purposes of federal income taxation.

(g) The City may not lease the 2000 Project or any portion thereof to any Person other than a Nonexempt Person which agrees in writing with the City and the State not to cause any default to occur under this Resolution; provided the City may lease all or any portion of the 2000 Project to a Nonexempt Person pursuant to a lease which in the Opinion of Bond Counsel delivered to the DNRC will not cause the interest on the State Bonds to be included in gross income for purposes of federal income taxation.

(h) The City shall not change the use or nature of the 2000 Project if (i) such change will violate the Safe Drinking 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 5.13. Maintenance of System; Liens. The City shall maintain the System, including the 2000 Project, in good condition and make all necessary renewals, replacements, additions, betterments and improvements thereto. The City shall not grant or permit to exist any lien on the 2000 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 2000 Bond; provided that this Section 5.13 shall not be deemed to be violated if a mechanic's or contractor's lien is filed against any such property so long as the City uses its best efforts to obtain the discharge of such lien and promptly reports to the DNRC the filing of such lien and the steps it plans to take and does take to discharge of such lien.

Section 5.14. Maintenance of Existence; Merger, Consolidation, Etc.; Disposition of Assets. The City shall maintain its corporate existence, except that it may consolidate with or merge into another Governmental Unit or permit one or more Governmental Units to consolidate with or merge into it or may transfer all or substantially all of its assets to another Governmental Unit and then dissolve if the surviving, resulting or transferee entity (if other than the City) (i) is a Public Entity and (ii) assumes in writing all of the obligations of the City under this Resolution and the Series 2000 Bond, and (a) such action does not result in any default in the performance or observance of any of the terms, covenants or agreements of the City under this Resolution and the Series 2000 Bond, (b) such action does not violate the State Act or the Safe Drinking Water Act and does not adversely affect the exclusion of interest on the Series 2000 Bond or the State Bonds from gross income for federal income tax purposes and (c) the City 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 City shall not transfer the System or any portion thereof to any other Person, except for property which is obsolete, outmoded, worn out, is being replaced or otherwise is not needed for the operation of the System, unless the provisions of (a) and (b) of the preceding paragraph are satisfied and the City delivers to the DNRC an Opinion of Bond Counsel to that effect and, in addition, the DNRC consents to such transfer.

Section 5.15. Use of Proceeds. The City shall apply the proceeds of the Loan from the DNRC solely as follows:

(a) The City shall apply the proceeds of the Loan solely to the financing, refinancing or reimbursement of the costs of the 2000 Project as set forth in Exhibit B hereto and this Section 5.15. The Loan will be disbursed in accordance with this Article V and Article VII of the Indenture. If the 2000 Project has not been completed prior to Closing, the City shall, as quickly as reasonably possible, complete the 2000 Project and expend proceeds of the Series 2000 Bond to pay the costs of completing the 2000 Project.

(b) No portion of the proceeds of the Loan shall be used to reimburse the City for costs paid prior to the date of adoption of this Resolution of a Project the construction or acquisition of which occurred or began earlier than June 1, 1993. In addition, if any proceeds of the Loan are to be used to reimburse the City for 2000 Project costs paid prior to the date of

adoption of Ordinance No. 2789, the City 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 Loan was incurred after June 1, 1993 for a Project the construction or acquisition of which began after June 1, 1993. No proceeds of the Loan 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 5.16. The Series 2000 Project. Set forth in Exhibit B to this Resolution is a description of the 2000 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 Loan (the 2000 Project may consist of more than one facility or activity). The 2000 Project may be changed and the description thereof in Exhibit B may be amended from time to time by the City but only after delivery to the DNRC of the following:

(a) A certificate of the City setting forth the amendment to Exhibit B and stating the reason therefor, including statements whether the amendment would cause an increase or decrease in the cost of the 2000 Project, an increase or decrease in the amount of Loan proceeds which will be required to complete the 2000 Project and whether the change will materially accelerate or delay the construction schedule for the 2000 Project;

(b) A written consent to such change in the 2000 Project by an Authorized DNRC Officer;

(c) An opinion or opinions of Bond Counsel stating that the 2000 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 2000 Bond 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 2000 Bond from gross income for purposes of federal income taxation. Such an opinion of Bond Counsel shall not be required for amendments which do not affect the type of facility to be constructed or activity to be financed.

The City acknowledges and agrees that an increase in the principal amount of the Loan 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 City of a resolution amendatory of or supplementary to this Resolution authorizing the additional loan and delivery of written certifications by officers of the City to the DEQ, the DNRC and the Trustee to the effect that all representations and covenants contained in this Resolution as it may be so amended or supplemented are true as of the date of closing of the additional loan 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 City 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 City and have made no representations to the City as to the sufficiency of the Loan to pay Project Costs or as to the availability of additional funds under the Program to increase the principal amount of the Loan.

Section 5.17. 2000 Project Representations and Covenants. The City hereby represents to and covenants with the DNRC that:

(a) all construction of the 2000 Project has complied and will comply with all federal and state standards, including, without limitation, EPA regulations and standards;

(b) all future construction of the 2000 Project will be done only pursuant to fixed price construction contracts. The City 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 City's, the DNRC's and the DEQ's satisfaction;

(c) all future construction 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; and

(d) the 2000 Project is a project of the type permitted to be financed under the Act, the State Act and the Program and Section 1452 of the Safe Drinking Water Act.

Section 5.18. Completion or Cancellation or Reduction of Costs of the 2000 Project.

(a) Upon completion of the 2000 Project, the City shall deliver to the DNRC a certificate stating that the 2000 Project is complete, stating the amount, if any, of the Reserved Amounts, and releasing the remaining amount, if any, of the Committed Amount. If any Reserved Amount is not later needed, the City shall so inform the DNRC and release such amount. If Appendix A describes two or more separate projects as making up the 2000 Project, a separate completion certificate shall be delivered for each.

(b) If all or any portion of the 2000 Project is cancelled or cut back or its costs are reduced or for any other reason the City will not require the full Committed Amount, the City shall promptly notify the DNRC in writing of such fact and release the portion of the Committed Amount which will not be needed.

Section 5.19. Issuance and Sale of the Series 2000 Bond. The Commission has investigated the facts necessary and hereby finds, determines and declares it to be necessary and desirable for the City to issue the Series 2000 Bond to evidence the Loan. The Series 2000 Bond is issued to the DNRC without public sale pursuant to Montana Code Annotated, Section 7-7-4433(2)(a).

Section 5.20. Terms of the Series 2000 Bond. The Series 2000 Bond, as amended and restated, shall be in the maximum principal amount equal to the original Committed Amount of the Loan, shall be issued as a single, fully registered bond numbered R-1, shall be dated, as amended and restated, as of the date of delivery to the DNRC in exchange for the DNRC Bond, and shall bear interest at the rate charged by the DNRC on the Loan. The principal of and interest on the Series 2000 Bond shall be payable on the same dates and in the same amounts as principal and interest of the Loan Repayments are payable. Advances of principal of the Series 2000 Bond shall be deemed made when advances of the Loan are made under Section 5.01, and such advances shall be payable in accordance with Schedule B to the Series 2000 Bond, as it may be revised by the DNRC from time to time in accordance with Section 5.01.



The City may prepay the Series 2000 Bond, in whole or in part, only upon the terms and conditions under which it can prepay the Loan under Section 5.07.

Section 5.21. Negotiability, Transfer and Registration. The Series 2000 Bond shall be fully registered as to both principal and interest, and shall be initially registered in the name of and payable to the DNRC. While so registered, principal of and interest on the Series 2000 Bond shall be payable to the DNRC at the Office of the Department of Natural Resources and Conservation, 1625 Eleventh Avenue, Helena, Montana 59620-1601 or such other place as may be designated by the DNRC in writing and delivered to the City. The Series 2000 Bond shall be negotiable, subject to the provisions for registration and transfer contained in this Section. No transfer of the Series 2000 Bond 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 2000 Bond, and (2) the City Controller of the City (or successors, the "2000 Registrar"), as Bond Registrar, has duly noted the transfer on the Series 2000 Bond and recorded the transfer on the registration books of the Registrar. The 2000 Registrar may, prior to noting and recording the transfer, require appropriate proof of the transferor's authority and the genuineness of the transferor's signature. The City shall be entitled to deem and treat the Person in whose name the Series 2000 Bond is registered as the absolute owner of the Series 2000 Bond for all purposes, notwithstanding any notice to the contrary, and all payments to the registered holder shall be valid and effectual to satisfy and discharge the City's liability upon the Series 2000 Bond to the extent of the sum or sums so paid.

Section 5.22. Execution and Delivery. The Series 2000 Bond shall be executed on behalf of the City by the manual signatures of the Mayor, City Manager and the City Controller. Any or all of such signatures may be affixed at or prior to the date of delivery of the Series 2000 Bond. In the event that any of the officers who shall have signed the Series 2000 Bond shall cease to be officers of the City before the Series 2000 Bond is issued or delivered, their signatures shall remain binding upon the City. Conversely, the Series 2000 Bond may be signed by an authorized official who did not hold such office on the date of adoption of this Resolution. The Series 2000 Bond shall be delivered to the DNRC, or its attorney or legal representative, in exchange for the DNRC Bond.

Section 5.23. Form. The Series 2000 Bond shall be prepared in substantially the form attached as Exhibit C.

Section 5.24. Authentication of Transcript. The officers of the City 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 2000 Bond as amended and restated and such other certificates and affidavits as may be required to show the right, power and authority of the City to issue the Series 2000 Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the City as to the truth of the statements of fact purported to be shown thereby.

Section 5.25. Right of Others To Perform City's Covenants. In the event the City shall fail to make any payment or perform any act required to be performed under this Article V or the Series 2000 Bond, then and in each such case the DNRC may (but shall not be obligated to) remedy such default for the account of the City and make advances for that purpose. No such

performance or advance shall operate to release the City from any such default and any sums so advanced by the DNRC 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 shall have the right to enter the 2000 Project or the facility or facilities of which the 2000 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 5.26. Indemnification of DNRC, DEQ and Trustee. The City shall indemnify and save harmless the DNRC, the DEQ, the Trustee 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, resulting from or in any way connected with the condition, use, possession, conduct, management, planning, design, acquisition, construction, installation or financing of the 2000 Project. The City shall also indemnify and save harmless the Indemnified Parties against and from all costs, reasonable counsel 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 any such claim or demand, the City shall, upon notice from the Indemnified Party, defend such proceeding on behalf of the Indemnified Party. Notwithstanding the foregoing, the City shall not be obligated to indemnify an Indemnified Party or any of its officers, employees or agents or hold any of them harmless against or from or in respect of any claim, damage, demand, expense, liability or loss arising from the intentional or willful misconduct or gross negligence of the Indemnified Parties.

Section 5.27. Assignment by City. The City may not assign its rights and obligations under this Resolution or the Series 2000 Bond so long as the Series 2000 Bond is Outstanding.

Section 5.28. Assignment by DNRC. The DNRC will pledge its rights under and interest in this Resolution and the Series 2000 Bond (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 City.

Section 5.29. 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 this 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 this 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 VI

### ADDITIONAL BONDS AND SUBORDINATE OBLIGATIONS

Section 6.01. Additional Bonds. In addition to the Series 2002A Bonds and the Series 2000 Bond whose issuance and delivery are provided for in Articles IV and V, additional Bonds

may at any time and from time to time be issued, sold and delivered by the City but only upon compliance with the provisions of this Section and upon the filing with the City Clerk the following:

A. A Supplemental Resolution creating the designated Series of Additional Bonds and authorizing the issuance and the sale thereof to the Original Purchaser or Purchasers named therein for the purchase price set forth therein;

B. An Opinion of Bond Counsel stating in effect:

(1) that all conditions precedent provided for in this Resolution relating to the issuance and delivery of such Additional Bonds have been complied with, including any conditions precedent specified in this Section 6.01;

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

(3) that the issuance of such Additional Bonds will not adversely affect the exclusion from gross income for purposes of federal income taxation of the interest on any Bonds then Outstanding;

C. A certificate signed by the City Manager and City Controller stating that the City is not then in default under this Resolution or that, upon issuance of such Additional Bonds and application of the proceeds thereof on the date of such issuance, no default would then be existing under this Resolution, and that on the date of issuance of such Additional Bonds the balance in the Reserve Account equals the Reserve Requirement, calculated assuming the issuance of such Additional Bonds (and the defeasance of any Bonds to be defeased by application of the proceeds of the Additional Bonds on the date of issuance thereof).

D. If the Additional Bonds are issued to finance a Project or to refund any Subordinate Obligations, a certificate or report from an Independent Consultant stating that the Net Revenues in the Fiscal Year immediately preceding the issuance of such Additional Bonds were at least equal to 125% of the maximum Principal and Interest Requirements for any complete future Fiscal Year (during the term of the then Outstanding Bonds) with respect to the Outstanding Bonds and the Additional Bonds proposed to be issued. In determining the Net Revenues available, if the City has approved an increase in the rates, fees, charges and rentals for the benefit and availability of the System and which increase shall become effective no later than the first month following the issuance of the Additional Bonds or if the System has gained additional customers as a result of the annexation of land to the City of unincorporated areas previously unserved by the System since the beginning of the preceding Fiscal Year, the Independent Consultant may adjust the historical Net Revenues of the System for the preceding Fiscal Year to include Net Revenues which, in the opinion of the Independent Consultant would have been received had such increased rates, fees, charges and rentals been in effect or had such additional customers been served by the System throughout the preceding Fiscal Year. In addition, if the Independent Consultant determines that the Operating Expenses will be increased or reduced because of the proposed Project, the additional annual Operating Expenses shall be added to, or the reduction in annual

Operating Expenses shall be subtracted from, the Operating Expenses for the preceding Fiscal Year , as the case may be, in determining Net Revenues for purposes of the first sentence of this paragraph.

E. If the Additional Bonds are issued to refund any Bonds then Outstanding:

(1) a report of an Independent Accountant to the effect that (a) the proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any moneys to be withdrawn from the Debt Service Account or the Reserve Account for such purpose, together with any other funds deposited for such purpose will be not less than an amount sufficient to pay the principal of and redemption premium, if any, on the Outstanding Bonds to be refunded and the interest which will become due and payable on and before the Redemption Dates or Stated Maturities of the Bonds to be refunded, or (b) (i) provision has been made for the payment of such Bonds by the deposit of cash sufficient, or of Government Obligations, the payments of interest on and principal of which are sufficient, to pay the principal amount of and premium, if any, on such Bonds with interest to the Stated Maturities thereof or to any prior Redemption Date or Dates on which they are prepayable, and have been called for redemption or provision has been irrevocably made for their redemption, on such date or dates; or (ii) provision has been made for the payment of such Bonds by the deposit with an escrow agent of Government Obligations, the principal of and interest on which, together with the moneys, if any, deposited with the escrow agent at such time, will be sufficient, if paid timely and in full, to pay when due the interest on and the principal, if any, of the refunding Bonds to be issued until a date designated at the time of deposit, which shall be a date on which the Bonds to be refunded are subject to redemption (the "Crossover Date") and to pay the applicable redemption price of the Bonds to be refunded on the Crossover Date, which Government Obligations and moneys shall be held by the escrow agent.

(2) If the refunded Bonds are to be deemed defeased under Article X upon the date of issuance of the refunding Bonds, a copy of irrevocable instructions which have been delivered to the escrow agent or the Registrar, to redeem all the Bonds to be redeemed on such date or dates specified in such instructions.

(3) An Opinion of Bond Counsel stating in effect that the issuance of the Bonds and the establishment of the escrow, if any, referred to in clause (1)(b) of this Section 6.01(E) will not adversely affect the exclusion of interest on the Bonds to be refunded from gross income for purposes of federal income taxation.

(4) If the average Principal and Interest Requirements on the Additional Bonds exceeds the average Principal and Interest Requirements on the Outstanding Bonds to be refunded, during the remaining term of the Outstanding Bonds which are not being refunded, a certificate or report of an Independent Consultant as would be required under the preceding paragraph D of this Section.

Section 6.02. Subordinate Obligations Permitted. Nothing herein prevents the City from issuing Subordinate Obligations having a lien on the Net Revenues subordinate to the lien thereon of the Bonds under this Resolution and payable solely from the Subordinate Obligations Account. Each Subordinate Bond shall include in its title a word or phrase such as “subordinate” or “junior” or “second lien” and a clear statement that the lien thereof on Net Revenues is subordinate to the lien of all Bonds on the Net Revenues. No payment of principal or interest shall be made on any Subordinate Obligation 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 Debt Service Account or the Operating Account or the balance in the Reserve Account is less than the Reserve Requirement.

ARTICLE VII

WATER SYSTEM FUND

Section 7.01. Bond Proceeds and Revenues Pledged and Appropriated. A special Water System Fund is hereby created and shall be maintained as a separate bookkeeping account on the official books of the City until all Bonds and interest and redemption premiums due thereon have been fully paid, or the City’s obligations with reference to such Bonds has been discharged as provided in Article X.

Pursuant to Ordinance No. 2623, the City has established a special Water and Sanitary Sewerage System Fund, which is to be terminated to effect the separation of the System and the Water System as described in Section 1.04. Upon the issuance of the Series 2002A Bonds, a portion of the balance on hand in any account contained in the Water and Sanitary Sewerage System Fund shall be credited to the following accounts established by this Article VII, substantially as follows:

<u>Ordinance No. 2623 Account</u>	<u>Amount Transferred</u>	<u>Article VII Account</u>
Debt Service Account	\$82,485.00	Debt Service Account
Reserve Account	\$1,776,819.86	Reserve Account
Operating Account	\$355,894.00	Operating Account
Repair and Replacement Account	\$448,076.67	Repair and Replacement Account
Surplus Account	\$6,348,553.03	Surplus Account

The amount of the transfers so authorized may be changed by a certificate of the City Controller delivered in connection with the issuance of the Series 2002A Bonds to reflect the actual amounts on hand in the existing accounts and the amounts required to effect the issuance of the Series 2002A Bonds on the terms contemplated by this Resolution and to effect the proper allocation of funds in separating the System from the Sanitary Sewerage System.

All proceeds of Bonds and all other funds presently on hand derived from the operation of the System are irrevocably pledged and appropriated to the Water System Fund. In addition, there is hereby irrevocably pledged and appropriated to the Water System Fund all Revenues and all investment earnings

on all funds and accounts within the Fund. Within the Water System Fund shall be separate accounts designated and described in Sections 7.02 through 7.09, to segregate income and expenses received, paid and accrued for the respective purposes described in those Sections. The Revenues received in the Fund shall be apportioned monthly, commencing no later than June 1, 2002.

Section 7.02. Construction Account. The Construction Account is hereby established as a separate account within the Water System Fund. Upon delivery of the Series 2002A Bonds, the City shall credit to the Construction Account, from the proceeds of the Series 2002A Bonds, the sum specified in clause (c) of Section 3.03. The Construction Account shall be used only to pay as incurred and allowed Project costs which under accepted accounting practice are capital costs of Projects authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, interest accruing on Bonds during the period of construction of facilities financed thereby and for six months thereafter, if and to the extent that the Debt Service Account is not sufficient for payment of such interest, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the construction and financing of such Projects including the costs of issuance of the Bonds. To the Construction Account shall be credited as received all proceeds of Bonds issued to finance Projects and any other funds appropriated by the City for an improvement, betterment or extension to the System, and all income received from the investment of the Construction Account. In the event there are insufficient funds in the Debt Service Account to pay principal of and interest on the Bonds, when due, after the transfer of funds to the Debt Service Account required in Section 7.03, any moneys then remaining in the Construction Account shall be transferred to the Debt Service Account for that purpose. Upon completion of a Project, the balance remaining in the Construction Account net of any amounts required to be transferred to the Rebate Account as provided in Section 7.09, may be used to pay the cost of other capital improvements to the System but if and to the extent not so used shall be transferred to the Reserve Account to the extent required to establish the Reserve Requirement therein and, to the extent not so required, to the Debt Service Account.

Section 7.03. Operating Account. The Operating Account is hereby established as a separate account within the Water System Fund. On each monthly apportionment there shall be set aside and credited to the Operating Account, as a first charge on the Revenues, such amount as may be required over and above the balance then held in the Operating Account to pay the reasonable and necessary Operating Expenses of the System which are then due and payable, or are to be paid prior to the next monthly apportionment. Operating Expenses shall not include any allowance for interest expense or depreciation, renewals or replacements of capital assets of the System and shall not include any portion of the salaries or wages paid to any officer or employee of the City, except such portion as shall represent reasonable compensation for the performance of duties necessary to the operation of the System. An operating reserve within the Operating Account is to be accumulated and maintained in an amount equal to the average monthly Operating Expenses for the preceding Fiscal Year or for another period selected by the Commission and containing not less than six consecutive months during the immediately preceding eighteen months. Money in the Operating Account shall be used solely for the payment of current Operating Expenses of the System.

Section 7.04. Debt Service Account. The Debt Service Account is hereby established as a separate account within the Water System Fund. Upon delivery of the Series 2002A Bonds, the City shall credit to the Debt Service Account, from the proceeds of the Series 2002A Bonds, the sum specified in clause (a) of Section 3.03. Upon each monthly apportionment there shall be credited to the Debt Service Account out of the Net Revenues remaining after the credit to the Operating Account an amount equal to not less than one-sixth of the interest due within the next six months on all Bonds then Outstanding and one-twelfth of the principal, if any, to become due within the next twelve months on all Outstanding Bonds (whether due at Stated Maturity, upon mandatory sinking fund redemption of Term Bonds or otherwise); provided that the City shall be entitled to reduce a monthly apportionment by the amount of any surplus previously credited and then on hand in the Debt Service Account. Except as provided in Section 7.09, money from time to time held in the Debt Service 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 Debt Service Account, plus the amount in the 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 Debt Service Account is temporarily insufficient therefor, to the extent of such deficiency funds shall be advanced to the Debt Service Account out of any funds then on hand in the Reserve Account, the Repair and Replacement Account or the Surplus Account, in that order.

Section 7.05. Reserve Account. The Reserve Account is hereby established as a separate account within the Water System Fund. Upon delivery of the Series 2002A Bonds, the City shall credit to the Reserve Account, from the proceeds of the Series 2002A Bonds, the sum specified in clause (b) of Section 3.03. Upon each monthly apportionment, if the balance in the Reserve Account is less than the Reserve Requirement, all Net Revenues in the Water System Fund remaining after the required credit to the Debt Service Account shall be credited to the Reserve Account until the balance therein equals the Reserve Requirement.

Upon the issuance of the Series 2000 Bond, the City Controller shall transfer, as provided in Section 7.01, \$\_\_\_\_\_ for deposit in the Reserve Account, which is an amount sufficient to cause the balance in the Reserve Account to equal the Reserve Requirement in respect of the Outstanding Series 2002A Bonds and the principal of the Series 2000 Bond, assuming all principal thereof has been advanced.

If on any Interest Payment Date there shall exist a deficiency in the Debt Service Account, the City shall transfer from the Reserve Account to the Debt Service Account an amount equal to such deficiency.

If the City issues Additional Bonds the City shall, upon issuance of the Additional Bonds, increase the balance in the Reserve Account to the Reserve Requirement, calculated after giving effect to the issuance of such Additional Bonds and the defeasance of any Bonds to be effected upon the issuance of such Additional Bonds.

Except as provided in Section 7.09, money held in the Reserve Account shall be transferred to the Debt Service Account to be used only to pay maturing principal and interest when money within the Debt Service Account is insufficient therefor or to pay or defease a Series of Bonds as provided in Article X.

If the balance in the Reserve Account has not been restored to the Reserve Requirement from transfers of Net Revenues within six months after the balance falls below the Reserve Requirement, the City shall transfer to the Reserve Account from the Surplus Account and then the Repair and Replacement Account, an amount sufficient to restore the balance therein to the Reserve Account.

If at any time (including, but not limited to, any Principal Payment Date and any Redemption Date), the balance in the Reserve Account net of any amounts required to be transferred to the Rebate Account as provided in Section 7.09, exceeds the Reserve Requirement, the City shall transfer such excess to the Debt Service Account to establish the required balance therein.

Section 7.06. Subordinate Obligations Account. Upon the issuance of any Subordinate Obligations as permitted by Section 6.02, there shall be established a Subordinate Obligations Account within the Water System Fund. Upon each monthly apportionment date, there shall be credited to the Subordinate Obligations Account, from the Net Revenues remaining after the required credits to the Operating Account, the Debt Service Account and the Reserve Account, such amount as may be required to pay Subordinate Obligations, including reasonable reserves therefor, as provided by any Supplemental Resolution or other instrument. Money on hand in the Subordinate Obligations Account shall be transferred to the Debt Service Account, the Debt Service Reserve Account or the Operating Account if at any time the balance on hand in any such accounts, after any transfer elsewhere authorized is not sufficient to pay all costs payable therefrom.

Section 7.07. Repair and Replacement Account. The Repair and Replacement Account is hereby established as a separate account within the Water System Fund. There shall be set aside and credited, upon each monthly apportionment, to the Repair and Replacement Account such portion of the Net Revenues, in excess of the current requirements of the Debt Service Account, the Reserve Account and the Subordinate Obligations Account (which portion of the Net Revenues is referred to herein as “surplus revenues”), as the City shall determine to be required for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Money in the Repair and Replacement Account shall be used only for the purposes above stated or, if so directed by the Commission to pay Operating Expenses, to redeem Bonds which are prepayable according to their terms, for transfer to the Debt Service Account for payment of principal or interest when due thereon as required in Section 7.04, to pay costs of improvements to the System or, if no default is subsisting under this Resolution to redeem Subordinate Obligations which are prepayable by their terms or to pay principal of or interest on Subordinate Obligations when due.

Section 7.08. Surplus Account. The Surplus Account is hereby established as a separate account within the Water System Fund. Any amount of the surplus revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore a current deficiency in the Debt Service Account or Reserve Account as provided in Sections 7.03 and 7.04, may be used for any of the following purposes and not otherwise:

- (a) Transfer to the Debt Service Account for the redemption of Bonds when and as such Bonds become payable according to their terms; or



(b) To purchase Bonds on the open market, whether or not the Bonds or other such Bonds may then be prepayable according to their terms; or

(c) If no default is then subsisting under this Resolution, transfer to the Subordinate Obligations Account for the redemption of Subordinate Obligations when and as such Subordinate Obligations become payable according to their terms, or to purchase Subordinate Obligations on the open market, if no Bonds are then prepayable according to their terms; or

(d) To be held as a reserve for redemption of Bonds or Subordinate Obligations which are not then but will later be prepayable according to their terms; or

(e) Transfer to the Repair and Replacement Account or the Construction Account, as the case may be, to pay for repairs of or for the construction and installation of improvements or additions to the System; or

(f) Transfer to the Operating Account to pay Operating Expenses and to restore the operating reserve or increase the same when determined to be necessary by the Commission.

No money shall at any time be transferred from the Surplus Account or any other account of the Water System Fund to any other fund of the City, nor shall such moneys at any time be loaned to other City funds or invested in warrants, special improvement bonds or other obligations payable from other funds, except as provided in Section 7.10.

Section 7.09. Rebate Account. The Rebate Account is hereby established as a separate account within the Water System Fund. The City shall make deposits to and disbursements from the Rebate Account or Subaccounts therein in accordance with a Rebate Certificate, and shall invest the money on hand in the Rebate Account pursuant to the requirements of the Rebate Certificates, and shall deposit income from such investments immediately upon receipt thereof in the Rebate Account.

Section 7.10. Deposit and Investment of Funds. The City Controller shall cause all money pertaining to the Water System Fund to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of Montana Code Annotated, Section 7-6-201, in a deposit account or accounts. The balance in such accounts, except such portion thereof as shall be guaranteed by federal deposit insurance, shall at all times be secured to its full amount by bonds or securities of the types set forth in said Section 7-6-201 or other provisions of State law. Any such money not necessary for immediate use may be deposited with such depository banks in savings or time deposits. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Water System Fund as authorized in this Resolution; except that money from time to time on hand in the Water System Fund may at any time, in the discretion of the Commission, be deposited or invested in securities which are direct, general obligations of, or obligations the prompt payment of the principal of and the interest on which is fully and unconditionally guaranteed by, the United States of America, bank repurchase agreements with respect to such obligations, certificates of deposits of national banks having a combined capital and surplus of at least \$1,000,000 (to the extent not insured by the Federal Deposit Insurance Corporation) or in the Montana short-term investment program administered by the Board of Investments of the State, which investments mature and bear interest at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts; provided that funds on hand in the Reserve

Account, the Repair and Replacement Account and the Surplus Account may be invested in said securities maturing not later than five years from the date of the investment; and provided, further, that money on hand in the Surplus Account of the Water System Fund may, in the discretion of the Commission, be invested in any securities which are direct, general obligations of the City. Except as otherwise expressly provided herein, income received from the deposit or investment of money in said accounts shall be credited to the account from which the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other money in that account.

While the Series 2002A Bonds are outstanding, the valuation of the above investments shall be determined as follows:

(a) For the purpose of determining the amount in any fund, all permitted investments credited to such fund shall be valued at fair market value. The City shall determine the fair market value based on accepted industry standards and from accepted industry providers. Accepted industry providers shall include but are not limited to pricing services provided by Financial Times Interactive Data Corporation, Merrill Lynch, Salomon Smith Barney, Bear Stearns or Lehman Brothers.

(b) As to certificates of deposit and bankers' acceptances: the face amount thereof, plus accrued interest thereon; and

(c) As to any investment not specified above: the value thereof established by prior agreement among the City, the Registrar and Ambac Assurance.

## ARTICLE VIII

### GENERAL COVENANTS

Section 8.01. General. The City covenants and agrees with the Holders from time to time of all Bonds that the recitals contained in Article I are correct; and that until all Bonds are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the System as a public convenience, free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, and will maintain, expend and account for its Water System Fund and the several accounts therein as provided in Article VII, and will not incur a further lien or charge on the income or revenues of the System except upon the conditions and in the manner prescribed in Article VI, and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Article VIII. The City further covenants to cause the System to be properly maintained in good operating condition.

Section 8.02. Competing Service. The City will not establish or enfranchise any other facilities in competition with the facilities of the System.

Section 8.03. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the System to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of Montana, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any

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

Section 8.04. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the System in such amounts as the City determines from time to time to be necessary or advisable by reason of the character and extent of such operation. This covenant shall not preclude the City's ability to participate in the self-insurance program established by the Montana Municipal Insurance Association. It will also cause all persons handling money and other assets of the Water System Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby. The premiums for all insurance and bonds required by this Section 8.04 and Section 8.03 constitute part of the Operating Expenses of the System, but no insurance liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Water System Fund.

Section 8.05. Disposition of Property. The City will not mortgage, lease, sell or otherwise dispose of any real or personal properties of the System, unless:

- (a) Prior to or simultaneous with such mortgage, lease, sale or other disposition, all of the Bonds then Outstanding shall be discharged as provided in Article X; or
- (b)
  - (i) The properties to be mortgaged, leased sold or otherwise disposed of are unserviceable, inadequate, obsolete or no longer required for use in connection with the System; and
  - (ii) the mortgage, lease, sale or other disposition will not prevent the City from complying with the provisions of this Resolution; and
  - (iii) all proceeds of the mortgage, lease, sale or other disposition of such properties are deposited into the Water System Fund.

Section 8.06. Books and Records. The City will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the Net Revenues derived from its operation, and the segregation and application of the Net Revenues in accordance with this Resolution, in such reasonable detail as may be determined by the City in accordance with generally accepted accounting practice and principles. It will cause such books to be maintained on the basis of a Fiscal Year. The City shall, within 180 days after the close of each Fiscal Year, cause to be prepared and supply to the Original Purchasers of any Series of Bonds then Outstanding, and the

Registrar a financial report with respect to the System for such Fiscal Year. The report shall be prepared at the direction of the City Controller in accordance with applicable generally accepted accounting principles and, in addition to whatever matters may be thought proper by the City Controller to be included therein, shall include the following:

- (a) A statement or statements showing in detail of the income and expenditures of the System for the Fiscal Year, identifying capital expenditures and separating them from operating expenditures;
- (b) A balance sheet as of the end of the Fiscal Year;
- (c) The amount on hand in each account of the Water System Fund at the end of the Fiscal Year;
- (d) 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
- (e) A determination that the report shows full compliance by the City with the provisions of this Resolution during the Fiscal Year covered thereby, including proper segregation of the capital expenditures from Operating Expenses, maintenance of the Reserve Requirement in the Reserve Account, and receipt of Net Revenues during each Fiscal Year as herein required, or, if the report should reveal that the Net Revenues have been insufficient for compliance with this Resolution, or that the methods used in accounting for such revenues were contrary to any provision of this Resolution, the report shall include a full explanation thereof, together with recommendations for such change in rates or accounting practices or in the operation of the System as may be required.

The City shall also have prepared and supplied to the Original Purchaser or Purchasers of any Series of Bonds then Outstanding, the Registrar, within 180 days of the close of each Fiscal Year, an audit report prepared by an Independent certified public accountant or an agency of the state in accordance with generally accepted accounting principles and practice with respect to the financial statements and records of the System. The audit report shall include an analysis of the City's compliance with the provisions of this Resolution.

Section 8.07. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the Net Revenues shall be payable from the Operating Account.

Section 8.08. Handling of Funds. The employees of the City, under the direction and control of the City Controller, shall keep books of accounts and collect the rates, charges and rentals for the services and facilities provided by the System and for other money currently receivable on account thereof. All money collected with respect to the System shall be deposited as received with the City Controller. The City Controller shall be bonded at all times with a surety company authorized to do business in Montana, in the amount of at least \$100,000, to assure the faithful carrying out of such duties, which requirement may be satisfied by a blanket bond covering other City employees as well as the City Controller. Any failure on the part of the City Controller to comply and to enforce compliance on the part of all officers and employees concerned with the keeping of books and accounts and the collection of rates, charges and rentals

and the deposit thereof into the System Fund as provided in this resolution, shall constitute malfeasance for which the City Controller and the surety on his bond shall be personally liable.

Section 8.09. Rates and Charges. While any Bonds are Outstanding, 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 other customers 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 all Subordinate Obligations and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System. No free service shall be provided to any Person. The City covenants and agrees that the rates, charges and rentals to be charged to all users shall be maintained and shall be revised, subject to any approval by the Public Service Commission or other agency of the State required under applicable law, whenever and as often as may be necessary, according to schedules such that (i) Revenues for each Fiscal Year will be at least sufficient to pay the principal of and interest on all Bonds payable from the Revenues derived in such Fiscal Year, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current Operating Expenses, to pay the principal of and interest on any Subordinate Obligations and to provide reserves for the repair and replacement of the System, and (ii) Net Revenues for each Fiscal Year commencing after June 30, 2002 will be at least equal to 125% of the maximum Principal and Interest Requirements for all future Fiscal Years during which any Bonds will be Outstanding.

If at the close of any Fiscal Year, the Revenues and Net Revenues actually received during such Fiscal 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 Revenues and Net Revenues in such amounts, and will do all things necessary to the end that such schedule will be placed in operation at the earliest possible date.

The establishment of the percentage of Net Revenues contained in the first paragraph of this Section 8.09 has been deemed necessary in order to sell the Series 2002A Bonds upon terms most advantageous to the City. The excess of Net Revenues over the Principal and Interest Requirements and the Reserve Requirement may be used as authorized in Article VII. The Series 2002A Bonds may be redeemed according to their terms on and after August 1, 2009, and in the estimation of this Commission any excess prior to that date of Net Revenues over Principal and Interest Requirements and required maintenance of the Reserve Account will be needed to pay or to provide reserves for payment of replacements, renewals and improvement costs, in order to provide adequate service for the present population and the increase thereof reasonably to be expected; and after that date, any excess not required for such purposes in the judgment of the Commission may be used to redeem Bonds and thereby reduce the interest cost thereon to the City and the persons served by the System.

Section 8.10. Billing. The charges for water services shall be billed at least monthly, and if the bill is not paid within 60 days of the date of billing, or if the customer fails to comply with all rules and regulations established for the System within 90 days after notice of violation thereof (which notice shall be given promptly upon discovery of any such violation), the City shall take appropriate legal action to collect the unpaid charges, including, to the extent now or hereafter authorized by law, making the charge a lien against the real property served by the water connection for which the charge remains unpaid and causing charges with respect to such properties to be collected in the same manner as taxes levied against property within the City.

Section 8.11. Appointment of Superintendent. In the event of default on the part of the City in the prompt and full payment of principal of or interest on any Bond, and if such default shall continue for a period of 60 days, the Commission will appoint a special superintendent for the System, with the power and responsibility to operate the System for the City, and to recommend to the Commission such revisions of the rates and charges and operating policies as may be necessary to comply with this Resolution, and to assure that the Net Revenues will be sufficient to pay all principal of and interest on Bonds, and he shall in all things so operate the System as to comply fully with all the requirements and provisions of this Resolution. The right of the Holders of the Bonds to require employment of such a superintendent shall not be exclusive, and in the event of default as herein outlined, such Holders shall have the right to proceed at law or in equity, in any form of action which shall to them seem appropriate.

Section 8.12. Remedies. No Holder of any Bond shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, without the written concurrence of the Holders of not less than 25% in aggregate principal amount of all such Bonds which are at the time Outstanding; but the Holders of such amount of Bonds may, either at law or in equity, by suit, action or other proceedings, protect and enforce the rights of all Holders of Bonds and compel the performance of any and all of the covenants required herein to be performed by the City and its officers and employees, including but not limited to the fixing and maintaining of rates, fees and charges and the collection and proper segregation of the Revenues and the application and use thereof. The Holders of a majority in principal amount of Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Bondholders or the exercise of any power conferred on them and the right to waive a default in the performance of any such covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. Nothing herein, however, shall impair the absolute and unconditional right of the Holder of each Bond to receive payment of the principal of, premium, if any, and interest on such Bond as such principal, premium and interest respectively become due, and to institute suit for any such payment. Any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City with power to charge and collect rates, fees and charges sufficient to provide for the payment of any Bonds, and to apply the Net Revenues in conformity with this Resolution and the laws of the State.

## ARTICLE IX

### SUPPLEMENTAL RESOLUTIONS

Section 9.01. General. The City reserves the right to adopt Supplemental Resolutions, from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with this Resolution, and which shall not adversely affect the interests or security of the Holders of Outstanding Bonds, or for the purpose of adding to the covenants and agreements herein contained, or to the Net Revenues herein pledged, other covenants and agreements thereafter to be observed and additional revenues or income thereafter appropriated to the Water System Fund, or for the purpose of surrendering any right or power herein reserved or conferred upon the City or for the purpose of authorizing the creation and

issuance of Additional Bonds or Subordinate Obligations as provided in and subject to the conditions and requirements of Article VI. Any Supplemental Resolution may be adopted without notice to or the consent of the Holder of any Bonds theretofore issued hereunder.

Section 9.02. Consent of Bondholders. Except as provided in Section 9.01, with the consent of the Holders of two-thirds in principal amount of Outstanding Bonds affected thereby as provided in Sections 9.03 and 9.04, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending this Resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof or of any Supplemental Resolution; provided, however, that no Supplemental Resolution shall be adopted at any time without the consent of the Holders of all Bonds issued hereunder and affected thereby, if it would extend the time of payment of interest thereon or principal thereof, would reduce the interest rate thereon or the amount of the principal or Redemption Price thereof, would give to any Bond or Bonds any privileges over any other Bond or Bonds, would reduce the sources of revenues or income appropriated to the Water System Fund, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution. For purposes of this Section 9.02, Bonds shall be deemed to be “affected” by a Supplemental Resolution if such Supplemental Resolution adversely affects or diminishes the rights of Holders thereof against the City or the Net Revenues.

Section 9.03. Notice. Notice of a Supplemental Resolution to be adopted pursuant to Section 9.02 shall be mailed by first-class mail to the Holders of all Outstanding Bonds at their addresses appearing in the Bond Register, and shall become effective only upon the filing of written consents with the City Clerk, signed by the Holders of not less than two-thirds in principal amount of the Bonds then Outstanding and affected thereby. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Holders in person or by agent duly appointed in writing, and shall become effective when delivered to the City Clerk. Any consent by the Holder of any Bond shall bind him and every future Holder of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent; provided that any Holder may revoke his consent with reference to any Bond by written notice received by the City Clerk before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Holders of the required amount of Bonds have not been received by the City Clerk within one year after the mailing of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

Section 9.04. Manner of Consent. Proof of the execution of any consent, or of a writing appointing any agent to execute the same, or of the ownership by any person of Bonds payable to bearer, shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City if made in the manner provided in this Section 9.04. The fact and date of the execution by any Person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by the certification of any notary public or other officer authorized by law to take acknowledgment of deeds, certifying that the Person signing it acknowledged to him the execution thereof. The fact and date of execution of any such consent may also be proved in any other manner which the City may deem sufficient; but the City may nevertheless, in its

discretion, require further proof in cases where it deems further proof desirable. The ownership of Bonds shall be proved by the Bond Register.

Section 9.05. Consent of DNRC. Notwithstanding anything to the contrary contained in this Article IX, so long as the Series 2000 Bond is outstanding, this Resolution may not be amended without the written consent of the DNRC.

Section 9.06. Bond Insurance Policy Not Taken Into Account. Notwithstanding any other provision of this Resolution, in determining whether the rights of the Holders of the Series 2002A Bonds will be adversely affected by any action taken pursuant to the term and provisions of this Resolution, the City shall consider the effect on such Holders as if there were no Financial Guaranty Insurance Policy.

## ARTICLE X

### DEFEASANCE

Section 10.01. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this article, all pledges, covenants and other rights granted by this Resolution to the Holders of such Bonds shall cease, other than to the payment of such Bonds from money segregated for such purpose. The City may also discharge its liability with respect to one or more Bonds in accordance with this Article X.

Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by Ambac Assurance pursuant to the Financial Guaranty Insurance Policy, the Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City, and all covenants, agreements and other obligations of the City to the registered owners shall continue to exist, and shall run to the benefit of Ambac Assurance, and Ambac Assurance shall be subrogated to the rights of such registered owners.

Section 10.02. Maturity. The City may discharge its liability with reference to all Bonds and interest thereon which are due on any date by depositing with the Registrar for such Bonds on or before the date a sum sufficient for the payment thereof in full; or if any Bond or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

Section 10.03. Redemption. The City may also discharge its liability with reference to any Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Registrar on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in this Resolution.

Section 10.04. Escrow. The City may also at any time discharge its liability in its entirety with reference to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or Government Obligations authorized by law to be so



deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, interest and redemption premiums, if any, to become due on such Bonds at their Stated Maturities or, if such Bonds are prepayable and notice of redemption thereof has been duly given or irrevocably provided for, to such earlier Redemption Date.

Section 10.05. Deposits in Trust. For purposes of Sections 10.01 to 10.03, if the Registrar is an officer of the City, such deposit shall be deemed to create a trust in favor of the Holders of the Bonds discharged thereby, and such funds shall be used only for the purpose of paying principal or the Redemption Price thereof and interest thereon.

## ARTICLE XI

### TAX MATTERS

Section 11.01. Use of Proceeds. The facilities of the System financial or refinanced in whole or in part with proceeds of the Series 2000 Bond or the Series 2002A Bonds (the “Financed Facilities”) are and will be owned and operated by the City and used by the City to provide water system services to members of the general public. No user of the System is granted any concession, license or special arrangement with respect to the System. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Financial Facilities or the System or security for the payment of the Series 2000 Bond or the Series 2002A Bonds which might cause the Series 2000 Bond or the Series 2002A Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

Section 11.02. General Covenant. The City covenants and agrees with the Holders from time to time of the Series 2000 Bond and the Series 2002A Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2000 Bond or the Series 2002A Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Series 2000 Bond and the Series 2002A Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

Section 11.03. Certification. The Mayor, the City Manager and the City Controller, being the officers of the City charged with the responsibility for issuing the Series 2002A Bonds pursuant to this Resolution are hereby authorized and directed to execute and deliver to the Original Purchaser thereof 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 2002A Bonds, it is reasonably expected that the proceeds of the Series 2002A Bonds will be used in a manner that would not cause the Series 2002A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

Section 11.04. Arbitrage Rebate.

(a) The City acknowledges that the Series 2002A Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2002A Bonds from gross income for federal income tax purposes, unless the Series 2002A Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Series 2002A Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the City Controller is hereby authorized and directed to execute a Rebate Certificate, substantially in the form of the Rebate Certificate prepared by Bond Counsel and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

(b) The City hereby represents and confirms that the Series 2000 Bond qualifies for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the City represents:

(1) Substantially all (not less than 95%) of the proceeds of the Series 2000 Bond (except for amounts to be applied to the payment of costs of issuance or representing accrued interest) have been and will be used for local governmental activities of the City.

(2) The aggregate face amount of all “tax-exempt bonds” (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds and current refunding bonds) issued by or on behalf of the City and all subordinate entities thereof during 2000 was not reasonably expected to exceed, and did not exceed, \$5,000,000.

(c) If notwithstanding the provisions of paragraph (b) of this Section 11.04, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Series 2000 Bond, the City 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 11.05. “Qualified Tax-Exempt Obligations.” Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City has designated the Series 2000 Bond as, and hereby confirms that the Series 2000 Bond is, a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code. The City did not designate any obligations in 2000 under Section 265(b)(3), except for the Series 2000 Bond, a \$1,500,000 lease-purchase agreement in respect of the Mitchell Water Park and a \$100,000 installment loan for a ticketing system at the Fairgrounds. The City hereby represents that it and all “subordinate entities” of the City did not issue in 2000 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) in an amount greater than \$10,000,000.

Section 11.06. Information Reporting. The City shall file with the Secretary of the Treasury, not later than August 15, 2002, a statement concerning the Series 2002A Bonds containing the information required by Section 149(e) of the Code.

## ARTICLE XII

### CONTINUING DISCLOSURE

Section 12.01. Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Series 2002A Bonds and the security therefor and to permit the Original Purchaser thereof and other participating underwriters in the primary offering of the Series 2002A Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the "SEC") under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the "Rule"), which will enhance the marketability of the Series 2002A Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the outstanding Series 2002A Bonds. The System is the only "obligated person" in respect of the Series 2002A Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made.

If the City fails to comply with any provisions of this Article XII, any Person aggrieved thereby, including the Owners of any outstanding Series 2002A Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Article XII, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Article XII constitute a default under the Series 2002A Bonds or under any other provision of this Resolution.

As used in this Article XII, "Owner" or "Bondowner" means, in respect of a Series 2002A Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any "Beneficial Owner" (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, "Beneficial Owner" means, in respect of a Series 2002A Bond, any Person which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Series 2002A Bond (including persons or entities holding Series 2002A Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Series 2002A Bond for federal income tax purposes.

Section 12.02. Information To Be Disclosed. The City will provide, in the manner set forth in Section 12.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

(A) on or before 180 days after the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2002, the following financial information and operating data in respect of the City (the "Disclosure Information"):

(1) the audited financial statements of the City for such Fiscal Year, accompanied by the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State, containing balance sheets as of the end of such Fiscal Year and a statement of operations, changes in fund balances and cash flows for the System for the Fiscal Year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified

in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under State law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the City Controller of the City; and

(2) To the extent not included in the financial statements referred to in paragraph (1) of this Section 12.02, information of the type set forth below, which information may be unaudited, but is to be certified as to accuracy and completeness in all material respects by the City's financial officer to the best of his or her knowledge, which certification may be based on the reliability of information obtained from governmental or other third party sources:

- (a) a description of any additional borrowing or future financing for the System;
- (b) updated figures for the number of System connections for the then current fiscal year in format similar to the table "Historical Water System Connections" in the Official Statement;
- (c) updated information of any changes in the user rates in a format similar to the table "Current Water System Rate Structure" in the Official Statement;
- (d) a list of the major System users for the then current fiscal year in format similar to the table "Water System Users" in the Official Statement.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 12.03 or the SEC. If the document incorporated by reference is a final official statement, it must also be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the Disclosure Information each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the System have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (B) of this Section 12.02), then, from and after such determination,

the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or this Article XII is amended as permitted by this paragraph (A) or Section 12.04, then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(B) In a timely manner, to the Municipal Securities Rulemaking Board, to the State Depository, if any, and to Ambac Assurance, notice of the occurrence of any of the following events which is a Material Fact (as hereinafter defined):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;
- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities; and
- (11) Rating changes.

As used herein, a “Material Fact” is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Series 2002A Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, a “Material Fact” is also an event that would be deemed “material” for purposes of the purchase, holding or sale of a Series 2002A Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

(C) In a timely manner, to the Municipal Securities Rulemaking Board, to the State Depository, if any, and to Ambac Assurance, notice of the occurrence of any of the following events or conditions:

- (1) the failure of the City to provide the Disclosure Information required under subsection (A) of Section 12.02 at the time specified thereunder;
- (2) the amendment or supplementing of this Article XII pursuant to Section 12.04, together with a copy of such amendment or supplement and any explanation provided by the City under subsection (B) of Section 12.04;
- (3) the termination of the obligations of the City under this Article XII pursuant to Section 12.04;
- (4) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared; and
- (5) any change in the Fiscal Year of the City.

Section 12.03. Manner of Disclosure. The City agrees to make available the information described in Section 12.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

(A) the information described in subsection (A) of Section 12.02, to each then nationally recognized municipal securities information repository under the Rule and to any state information depository then designated or operated by the State as contemplated by the Rule (the "State Depository"), if any;

(B) the information described in subsection (B) and (C) of Section 12.02, to the Municipal Securities Rulemaking Board and to the State Depository, if any; and

(C) the information described in Section 12.02, to any rating agency then maintaining a rating of the Series 2002A Bonds and, at the expense of such Bondowner, to any Bondowner who requests in writing such information, at the time of transmission under paragraphs (A) or (B) of this Section 12.03, as the case may be, or, if such information is transmitted with a subsequent time of release, at the time such information is to be released.

Section 12.04. Term; Amendments; Interpretation.

(A) The covenants of the City in this Article XII shall remain in effect so long as any Series 2002A Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this Article XII shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this Article XII will not cause participating underwriters in the primary offering of the Series 2002A Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successory thereto or amendatory thereof.

(B) This Article XII (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (C) of this Section 12.04) or the consent of the Owners of any Series 2002A Bonds, by a resolution of this Commission filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the System or the type of operations conducted by the System, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this Article XII as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Series 2002A Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondowners under the Rule.

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

(C) This Article XII is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Section 12.05. Further Limitation of Liability of City. In and to the extent the limitations of liability contained in subsection (a) are not effective, anything contained in this Article XII to the contrary notwithstanding, in making the agreements, provisions and covenants set forth in this Article XII, the City has not obligated itself except with respect to the Net Revenues. None of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions whatsoever or constitute a pledge of the general credit or taxing powers of the City.

Section 12.06. Continuing Disclosure to DNRC. The City understands and acknowledges that the DNRC is acquiring the Series 2000 Bond under the Program pursuant to which the State issues from time to time State Bonds to provide funds therefor. The City covenants and agrees that, upon written request of the DNRC from time to time, the City will promptly provide to the DNRC all information that the DNRC reasonably determines to be necessary or appropriate to offer and sell State Bonds or to provide continuing disclosure in respect of State Bonds, whether under Rule 15c2-12 (17 C.F.R. § 240.15c2-12) promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended, or otherwise. Such information shall include, among other things and if so requested, financial statements of the City prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under 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 City, and, if for a fiscal year and so requested by the DNRC, subject to an audit report and

opinion of an accountant or government auditor, as permitted or required by the laws of the State). The City will also provide, with any information so furnished to the DNRC, a certificate of the Mayor and the City Controller of the City to the effect that, to the best of their knowledge, such information does not include any untrue statement of a material fact or omit to state any material fact required to be stated therein to make the statements made, in light of the circumstances under which they are made, not misleading.

## ARTICLE XIII

### MISCELLANEOUS; EFFECTIVE DATE; REPEALS

Section 13.01. Notices. All notices or other communications hereunder shall be sufficiently sent or given and shall be deemed sent or given when delivered or mailed by certified mail, postage prepaid, to the parties at the following addresses:

DNRC:	Department of Natural Resources and Conservation 1625 Eleventh Avenue 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 Two Union Square 1420 - 5 <sup>th</sup> Avenue, 7 <sup>th</sup> Floor Seattle, Washington 98101 Attn: Corporate Trust Department
City:	City of Great Falls P. O. Box 5021 Great Falls, Montana 59403 Attn: City Controller

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

Section 13.03. Applicable Law. This Resolution shall be governed by and construed in accordance with the internal laws of the State.

Section 13.04. Captions; References to Sections. The captions in this Resolution are for convenience only and do not define or limit the scope or intent of any provisions or Sections of this Resolution.



Section 13.05. No Liability of Individual Officers, Directors or Trustees. No recourse under or upon any obligation, covenant or agreement contained in this Resolution shall be had against any director, officer or employee, as such, past, present or future, of the DNRC, the DEQ or the Trustee, either directly or through the DNRC, the DEQ or the Trustee, or against any officer, or member of the governing body or employee of the City, past, present or future, as an individual so long as such individual was acting in good faith. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such officer or member of the governing body or employee of the DNRC, the Trustee or the City is hereby expressly waived and released by the City and by the DNRC as a condition of and in consideration for the adoption of this Resolution and the making of the Loan.

Section 13.06. Effective Date; Repeals. This Resolution shall become effective upon passage and all provisions of ordinances, resolutions and other actions and proceedings of the City which 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.

PASSED by the City Commission of the City of Great Falls, Montana, this 7th day of May, 2002.

\_\_\_\_\_  
Mayor

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

EXHIBIT A

[Face of the Series 2002A Bonds]

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF CASCADE

CITY OF GREAT FALLS  
WATER SYSTEM REVENUE REFUNDING BOND  
SERIES 2002A

No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>Interest Rate</u>	<u>Principal Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
	August 1,	May 15, 2002	

REGISTERED HOLDER:

PRINCIPAL AMOUNT:

FOR VALUE RECEIVED, THE CITY OF GREAT FALLS (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Montana, hereby acknowledges itself to be specially indebted and hereby promises to pay to the registered holder identified above or registered assigns, solely from the Debt Service Account of its Water System Fund, the principal amount specified above on the Principal Maturity Date specified above, or, if this Bond is redeemable as stated below, on an earlier date on which it shall have been duly called for redemption, upon presentation and surrender hereof at the operations center, in Saint Paul, Minnesota, of the Registrar hereinafter named, with interest thereon, from May 15, 2002, or from such later date to which interest has been paid or duly provided for until the principal amount hereof is paid or until this Bond, if redeemable, has been duly called for redemption, at the annual interest rate specified above. Interest is payable semiannually on February 1 and August 1 in each year, commencing August 1, 2002, to the registered holder of this Bond as such appears of record in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. Interest is payable by check or draft mailed by U.S. Bank National Association, as Bond Registrar, Transfer Agent and Paying Agent, or its successor designated under the resolution described herein (the "Registrar"), at its operations center in Saint Paul, Minnesota. The principal of and interest on this Bond are payable in lawful money of the United States of America.

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

This Bond is one of a duly authorized issue of Bonds of the City designated as “Water System Revenue Bonds” (collectively, the “Bonds”), issued and to be issued in one or more Series under, and all equally and ratably secured by, a resolution adopted by the City Commission on May 7, 2002 (the “Resolution”), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the conditions under which Additional Bonds may be issued on a parity with the Series 2002A Bonds, the conditions under which the Resolution may be amended, the rights of the Holders of the Bonds and other matters. As provided in the Resolution, the Bonds are issuable in Series which may vary as in the Resolution provided or permitted. This Bond is one of the Series specified in its title, issued in the aggregate principal amount of \$8,030,000 (the “Series 2002A Bonds”), all of like date of original issue and tenor except as to serial number, denomination, date, interest rate, maturity date and redemption privilege. The Series 2002A Bonds are issued by the City for the purpose of providing funds to be used with other available funds of the City to refund certain valid outstanding revenue bonds of the City issued to finance the costs of certain improvements of the City’s municipal water system (the “System,” which term includes all improvements, betterments, extensions and alterations of the System as it exists at any time). The Series 2002A Bonds are issued on a parity and are equally and ratably secured by the Net Revenues of the System with the City’s outstanding Amended and Restated Water System Reserve Bond (DNRC Drinking Water Revolving Loan Program), Series 2000 (the “Series 2000 Bond”).

The Series 2002A Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the “Act”), and pursuant to the Resolution. The Bonds are payable solely, and equally and ratably, from the net revenues pledged to the payment thereof. There are also outstanding under the Resolution the City’s Amended and Restated Water System Revenue Bond (DNRC Drinking Water Revolving Loan Program), Series 2000 (the “Series 2000 Bond”)

The Bonds are not general obligations of the City and the City’s general credit and taxing powers are not pledged to the payment of the Bonds or the premium, if any, or interest thereon. The Bonds do not constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions.

The Series 2002A Bonds maturing in the years 2002 through 2009 are not subject to redemption, but Series 2002A Bonds having stated maturities in 2010 and later years are each subject to redemption at the option of the City, in whole or in part, and in \$5,000 principal amounts selected by lot or other manner deemed fair by the Registrar within a maturity, on August 1, 2009 and on any business day thereafter, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the date of redemption.

Notice of redemption is to be mailed, not less than 30 days nor more than 60 days before the date fixed for redemption, to the Registrar and to the registered holder of each Series 2002A Bond to be redeemed; provided that any defect in or failure to give such mailed notice shall not affect the validity of proceedings for the redemption of any Series 2002A Bond not affected thereby. Series 2002A Bonds in a denomination greater than \$5,000 may be redeemed in part, in integral multiples of \$5,000. Upon partial redemption of any Series 2002A Bond, one or more new Series 2002A Bond or Bonds will be delivered to the registered holder without charge, representing the unredeemed principal amount outstanding.

This Bond is a negotiable investment security as provided in the Montana Uniform Commercial Code. As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the Registrar at its operations center in Saint Paul, Minnesota, by the registered holder hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered holder or his attorney; and may also be surrendered in exchange for Series 2002A Bonds of other

authorized denominations. Upon such transfer or exchange, the City will cause one or more new Series 2002A Bond or Bonds to be issued in the name of the transferee or registered holder, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, and has created a special Water System Fund into which the Revenues (as defined in the Resolution) of the System will be paid, and a separate and special Debt Service Account in that Fund, into which will be paid monthly, from and as a first and prior lien on the Net Revenues of the System then on hand (the gross revenues remaining after the payment of operating expenses of the System) an amount not less than one-sixth of the interest due on all Outstanding Bonds within the next six months and one-twelfth of the principal of all Outstanding Bonds due within the next twelve months; that the City has credited to the Reserve Account of the Water System Fund from the proceeds of the Series 2002A Bonds an amount sufficient to cause the balance therein to equal the Reserve Requirement (as defined in the Resolution) and the City has agreed thereafter to credit monthly to the Reserve Account, from the Net Revenues (Revenues less Operating Expenses, as defined in the Resolution) such additional amounts as may be necessary to maintain a balance therein at least equal to the Reserve Requirement; that the Debt Service Account and the Reserve Account will be used only to pay the principal of, premium, if any, and interest on the Bonds; that the rates and charges for the System will from time to time be made and kept sufficient to provide Net Revenues for each fiscal year commencing after June 30, 2002, at least equal to 125% of the maximum of the principal of and interest on the Series 2000 Bond, the Series 2002A Bonds and any Additional Bonds to become due in all full future fiscal years, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current expenses of operating and maintaining the System, to pay principal of and interest on any subordinate obligations issued under the Resolution and to provide reserves for the repair and replacement of the System; that Additional Bonds may be issued and made payable from the Water System Fund on a parity with the Series 2000 Bond and the Series 2002A Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues, whether or not such obligation shall also constitute a general obligation and indebtedness of the City, unless the lien thereof shall be expressly made subordinate to the lien of the Series 2000 Bond and the Series 2002A Bonds on such Net Revenues; that all provisions for the security of the holder of this Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Bond a valid and binding special, limited obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; that this Bond and the interest and premium, if any, hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Debt Service Account and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2002A Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation; and that the opinion printed hereon is a true copy of the legal opinion given by Bond Counsel with reference to the Series 2002A Bonds, dated the date of original delivery of the Series 2002A Bonds.

This Bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution unless the Certificate of Authentication hereon shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Great Falls, Montana, by its City Commission, has caused this Bond to be executed by the facsimile signatures of its Mayor, City Manager and City Controller.

\_\_\_\_\_  
(Facsimile Signature)  
Mayor

\_\_\_\_\_  
(Facsimile Signature)  
City Manager

\_\_\_\_\_  
(Facsimile Signature)  
City Controller

Date:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Water System Revenue Refunding Bonds, Series 2002A delivered pursuant to the Resolution mentioned within.

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

By \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_

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

TEN COM -- as tenants  
in common

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

TEN ENT -- as tenants  
by the entireties

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

under Uniform Transfers to  
Minors Act.....  
(State)

Additional abbreviations may also be used.

\_\_\_\_\_

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the said Bond on the books kept for registration of the within Bond, with full power of substitution in the premises.

Date: \_\_\_\_\_

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE:

\_\_\_\_\_  
/ \_\_\_\_\_/

SIGNATURE GUARANTEE

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

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

## EXHIBIT B

### Description of the 2000 Project

The cost of designing, engineering, constructing and installing upgrades and improvements to the System, which include replacing approximately 16,000 feet of deteriorated water main in areas having a high incidence of main breaks with the majority of the water main being replaced with eight-inch PVC water main; utility replacement associated with the 10<sup>th</sup> Avenue South project; developing a current facility plan; and analysis of water storage reservoirs.

EXHIBIT C

[Form of the Series 2000 Bond]

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF CASCADE

CITY OF GREAT FALLS

AMENDED AND RESTATED WATER SYSTEM REVENUE BOND  
(DNRC DRINKING WATER REVOLVING LOAN PROGRAM)  
SERIES 2000

R-1

\$3,000,000

FOR VALUE RECEIVED, THE CITY OF GREAT FALLS, MONTANA (the "City"), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the Department of Natural Resources and Conservation of the State of Montana (the "DNRC"), or its registered assigns, solely from the Debt Service Account of its Water System Fund, the principal sum equal to the sum of the amounts entered on Schedule A hereto under "Total Amount Advanced," with interest on each such amount from the date such amount is advanced hereunder at the rate of two and one-quarter percent (2.25%) per annum on the unpaid balance until paid. In addition, the City shall pay an Administrative Expense Surcharge and a Loan Loss Reserve Surcharge on the outstanding principal amount of this Bond at the rates of seventy-five hundredths of one percent (0.75%) and one percent (1.00%), respectively, per annum. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be payable in semiannual installments payable on each January 1 and July 1 (each a "Loan Repayment Date") commencing July 1, 2001. Principal shall be payable on the dates set forth in Schedule B hereto. Each installment shall be in the amount set forth opposite its due date in Schedule B hereto under "Total Loan Payment." The portion of each such payment consisting of principal, the portion consisting of interest and the portion consisting of Administrative Expense Surcharge and the portion consisting of Loan Loss Reserve Surcharge shall be as set forth in Schedule B hereto. Upon each disbursement of Loan amounts to the City pursuant to the Resolution described below, the DNRC shall enter (or cause to be entered) the amount advanced on Schedule A under "Advances" and the total amount advanced under the Resolution (as hereinafter defined), including such disbursement, under "Total Amount Advanced." The DNRC shall prepare Schedule B and revised Schedules B, or cause Schedule B and revised Schedules B to be prepared, as provided in Section 5.1 of the Resolution. Schedule B shall be calculated and recalculated on a level debt service basis assuming an interest rate of four percent (4.00%) per annum. Past-due payments of principal and interest, Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall bear interest at the rate of ten percent (10.00%) per annum, until paid. Interest and Administrative Expense Surcharge and Loan Loss Reserve Surcharge shall be calculated on the basis of a 360-day year comprising 12 months of 30 days each. All payments under this Bond shall be made to the registered holder of this Bond, at its address as it appears on the Bond register, in lawful money of the United States of America.

This Bond constitutes a series in the maximum authorized principal amount of \$3,000,000 (the "Series 2000 Bond"), issued to finance costs of designing and engineering of certain improvements to the water system of the City (the "System"), to make a deposit to a reserve fund for the Bonds and to pay



costs of issuance of the Series 2000 Bond. The Series 2000 Bond is issued, as amended and restated, pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Part 44 and 45, as amended, and Resolution No. 9226 of the City adopted on May 7, 2002 (as hereafter amended or supplemented in accordance with its terms, the "Resolution"). The Series 2000 Bond is issuable only as a single, fully registered bond. The Series 2000 Bond is issued on a parity and is equally and ratably secured by the Net Revenues of the System with the City's outstanding Water System Revenue Refunding Bonds, Series 2002A (the "Series 2002A Bonds").

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2000 Bond has been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which Additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with this Series 2000 Bond and the Series 2002A Bonds (collectively, the "Bonds") or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the City, and the rights of the owners of the Series 2000 Bond.

The City may prepay the principal of the Series 2000 Bond only if (i) it obtains the prior written consent of the DNRC thereto, and (ii) 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 and Administrative Expense Surcharge and Loan Loss Reserve Surcharge to the date of prepayment on the amount of principal prepaid. If the Series 2000 Bond is prepaid in part, such prepayments shall be applied to principal payments in inverse order of maturity.

The Series 2000 Bond, including interest, and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not constitute a debt of the City within the meaning of any constitutional, statutory or charter limitation or provision.

The City may deem and treat the person in whose name this Series 2000 Bond is registered as the absolute owner hereof, whether this Series 2000 Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and the City shall not be affected by any notice to the contrary.

This Series 2000 Bond has been designated by the City as a "qualified tax-exempt obligation" pursuant to Section 265 of the Internal Revenue Code of 1986, as amended.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City has duly authorized and will forthwith undertake the improvements to the System herein above described, that the City will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, and has created a special Water System Fund into which the Revenues (as defined in the Resolution) of the System will be paid, and a separate and special Debt Service Account in that Fund, into which will be paid monthly, from and as a first and prior lien on the Net Revenues of the System then on hand (the gross revenues remaining after the payment of operating expenses of the System) an amount not less than one-sixth of the interest due on all Outstanding Bonds within the next six months and one-twelfth of the principal of all Outstanding Bonds due within the next twelve months; that the City has agreed to credit to the Reserve Account of the Water System Fund from the proceeds of the Series 2000 Bond as principal hereof is advanced and thereafter to credit monthly to the Reserve Account, from the Net Revenues (Revenues less Operating Expenses, as defined in the Resolution) such additional amounts as may be necessary to establish and maintain a balance therein at least equal to the Reserve Requirement (as defined in the Resolution); that the Debt Service Account and the Reserve Account will be used only to pay the principal of, premium, if any, and interest on the Bonds; that the rates and charges for the System will from time to time be made and kept sufficient to provide Net Revenues for each fiscal year

commencing after June 30, 2002, at least equal to 125% of the maximum of the principal of and interest on the this Series 2000 Bond, the Series 2002A Bonds and any Additional Bonds to become due in all full future fiscal years, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current expenses of operating and maintaining the System, to pay principal of and interest on any subordinate obligations issued under the Resolution and to provide reserves for the repair and replacement of the System; that Additional Bonds may be issued and made payable from the Water System Fund on a parity with this Series 2000 Bond and the Series 2002A Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues, whether or not such obligation shall also constitute a general obligation and indebtedness of the City, unless the lien thereof shall be expressly made subordinate to the lien of this Series 2000 Bond and the Series 2002A Bonds on such Net Revenues; that all provisions for the security of the holder of this Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Bond a valid and binding special, limited obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; and that this Bond and the interest and premium, if any, hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Debt Service Account and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2002A Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Great Falls, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor, City Manager and City Controller, and has caused this Bond, as amended and restated, to be dated as of the \_\_\_\_ day of \_\_\_\_\_, 2002.

---

Mayor

---

City Manager

---

City Controller

REGISTRATION AND TRANSFER

This Bond shall be fully registered as to both principal and interest. No transfer of this Bond shall be valid unless and until (1) the registered holder of the Bond, or his duly authorized attorney or legal representative, executes the form of assignment appearing on this Bond, and (2) the City Controller as bond registrar (the "Registrar"), has duly noted the transfer on the Bond and recorded the transfer on the Registrar's registration books. The City shall be entitled to deem and treat the person in whose name this Bond is registered as absolute owner thereof for all purposes, notwithstanding any notice to the contrary. Payments on account of the Bond shall be made only to the order of the registered holder thereof, and all such payments shall be valid and effectual to satisfy and discharge the City's liability upon the Bond to the extent of the sum or sums so paid.

THE FOLLOWING ENTRIES ARE TO BE MADE ONLY BY THE BOND  
REGISTRAR UPON REGISTRATION OF EACH TRANSFER

The City Controller of the City of Great Falls, Montana, acting as Bond Registrar, has transferred, on the books of the City, on the date last noted below, ownership of the principal amount of and the accrued interest on this Bond to the new registered holder noted next to such date, except for amounts of principal and interest theretofore paid.

<u>Date of Transfer</u>	<u>Name of New Registered Holder</u>	<u>Signature of Bond Registrar</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

FORM OF ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ the within Bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the Bond on the books kept for the registration thereof, with full power of substitution in the premises.

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

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



SCHEDULE B

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Administrative Expense Surcharge</u>	<u>Loan Loss Reserve Surcharge</u>	<u>Total Loan Payment</u>
-------------	------------------	-----------------	---	--	-------------------------------

EXHIBIT D

ADDITIONAL REPRESENTATIONS AND COVENANTS

None