

RESOLUTION OF THE TOWN OF STEVENSVILLE

RESOLUTION NO. 47

RESOLUTION AUTHORIZING FILING OF APPLICATION WITH THE ECONOMIC DEVELOPMENT ADMINISTRATION, U. S. DEPARTMENT OF COMMERCE, UNITED STATES OF AMERICA, FOR A GRANT UNDER THE TERMS OF PUBLIC LAW 89-135 AS AMENDED

WHEREAS, under the terms of Public Law 89-136, as amended, the United States of America has authorized the making of grants to public bodies and private nonprofit organizations or associations to aid in financing the construction of specific projects:

NOW THEREFORE, be it resolved by The Town of Stevensville
1. That Audrey Ebel is hereby authorized to execute and file an application on behalf of the Town of Stevensville with The Economic Development Administration, U. S. Department of Commerce, for a grant in aid in financing the construction of Water system Improvements.

2. That the above named authorized representative is hereby authorized and directed to furnish such information as the Economic Development Administration, U. S. Department of Commerce, may reasonable request in connection with the application which is herein authorized to be filed, and further is authorized to accept any offer of grant which may be tendered by the Economic Development Administration, U. S. Department of Commerce.

CERTIFICATE OF RECORDING OFFICER

The Undersigned duly qualified and acting Town Clerk of the Town of Stevensville does hereby certify: That the above resolution is a true and correct copy of the resolution, authorizing filing of application with the Economic Development Administration, U. S. Department of Commerce, as regularly adopted at a regular meeting of the TOWN OF STEVENSVILLE, duly held on the 9th of July 1979; and further that such resolution has been fully recorded in the journal of proceedings and records in my office. In Witness whereof, I have hereunto set my hand this 9th of July 19 79

Audrey Ebel
Recording Officer

Town Clerk

Title

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF RAVALLI

TOWN OF STEVENSVILLE

WATER SYSTEM REVENUE BOND

No.

\$2,700 (\$4,700)

KNOW ALL MEN BY THESE PRESENTS that the Town of Stevensville, a duly organized municipal corporation of Ravalli County, Montana, for value received promises to pay to bearer, solely out of the Revenue Bond Account of its Water System Fund the sum of TWO THOUSAND SEVEN HUNDRED DOLLARS on the 1st day of July, 19 , or, if this bond is prepayable as stated below, on a date prior thereto on which it shall have been duly called for redemption, and to pay interest on said principal sum out of said account from the date hereof until the principal sum is paid, or, if this bond is prepayable until it has been duly called for redemption, at the rate of *Seven* per cent (*7*%) per annum, payable semiannually on each January 1 and July 1, commencing January 1, 1979, interest to maturity being represented by and payable in accordance with and upon presentation and surrender of the interest coupons appurtenant hereto. Both principal and interest are payable at *Office of Town Clerk, Stevensville Montana, in January, July*, in any coin or currency of the United States of America which on the respective dates of payment is legal tender for public and private debts.

This bond is one of an issue in the principal amount of \$110,000, all of like date and tenor except as to denomination, serial number, interest rate, maturity date and redemption privilege, issued pursuant to authorization by more than a majority of the qualified electors of the Town voting thereon at a special election duly called and held, for the purpose of providing money to finance the improvement of its municipal water system, and pursuant to and in full conformity with the Constitution and laws of the State of Montana and the ordinances of said Town thereunto enabling, including Title 7, Chapter 7, Montana Code Annotated, as amended, and No. *310* of the Town, duly enacted on *April 9*, 1979.

Bonds of this issue are payable on their respective stated maturity dates and are each subject to redemption and prepayment at the option of the Town, at par, plus accrued interest, and in inverse order of their serial numbers, on any interest payment date. Not less than thirty days in advance of the date fixed for prepayment and redemption of any bond, the Town will mail notice of the call thereof to the holder, if known, and to the bank at which principal and interest are then payable, and will cause such notice to be published in a Missoula, Montana newspaper and in a New York City financial newspaper. Holders of prepayable bonds of this issue may register their names and addresses and the serial numbers of their bonds with the Town Treasurer for the purposes of receiving such mailed notice.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the Town has duly authorized and will forthwith construct and complete the undertaking above mentioned, has fixed and established and will collect reasonable rates and charges for the services and facilities afforded by the municipal water system, and has created a special Water System Fund into which the gross revenues of the system, including all additions thereto and replacements and improvements thereof, will be paid, and a separate and special Revenue Bond Account in that fund, into which will be paid monthly, out of the net revenues of the system then on hand, an amount equal to not less than one-twelfth of the total principal and interest payments to fall due within the then next succeeding twelve months on all outstanding bonds payable from that account, and into which shall be paid additional net revenues sufficient to establish by 19 and thereafter maintain a reserve in a sum equal to the maximum amount of principal and interest to fall due within any subsequent calendar year on all such bonds; that the Revenue Bond Account will be used only to pay the principal of and interest on bonds issued pursuant to the authority herein recited, as such principal and interest respectively become due; that such rates and charges will from time to time be made and kept sufficient to provide gross income and revenues adequate for prompt payment of the reasonable and current expense of each fiscal year beginning after net revenues, in excess of such current expenses, equal to 130 per cent of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent calendar year; that the payments required to be made to the Revenue Bond Account constitute a first and prior lien and charge on the entire net income and revenues to be derived from the operation of such system and of all future additions thereto and betterments thereof; that additional bonds and refunding bonds may be issued and made payable from the Revenue Bond Account on a parity with bonds of this issue, upon certain conditions set forth in the authorizing ordinance, but no obligation will be otherwise incurred and made payable from the net revenues of the municipal water system, whether or not such obligation shall also constitute a general obligation and indebtedness of the Town, unless the lien thereof shall be expressly made subordinate to the lien of the bonds of this issue on such net revenues; that all provisions for the security of the holder of this bond set forth in *Resolution No. 33* 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 Town to be done, to exist, to happen and to be performed in order to make this bond a valid and binding special obligation of the Town according to its terms have been done, do exist, have happened and have been performed as so required; and that the issuance of this bond does not cause the indebtedness, whether general or special, of the Town to exceed any constitutional or statutory limitation of indebtedness.

IN WITNESS WHEREOF the Town of Stevensville, Ravalli County, Montana, by its Town Council, has caused this bond to be executed in its behalf by the signatures of the Mayor and Town Treasurer, countersigned by the Town Clerk, one such signature being manual and the other two signatures being printed facsimiles, and sealed with a printed facsimile of its corporate seal, has caused the appurtenant interest coupons and the certificate appearing on the reverse side hereof to be executed and authenticated by the facsimile signatures of such officers, and has caused this bond to be dated as of July 1, 1978.

David J. Burke
Mayor

Countersigned:

Audrey Ebel
Town Clerk

Audrey Ebel
Town Treasurer

(Facsimile Seal)

(Form of Coupon)

No.

\$

On the 1st day of January (July), 19 , unless the bond described below is subject to and has been called for earlier redemption, the Town of Stevensville, Ravalli County, Montana, will pay to bearer at

in , out of the Revenue Bond Account in its Water System Fund, the amount shown hereon in lawful money of the United States of America for interest then due on its Water System Revenue Bond, dated July 1, 1978, No. .

(Facsimile signature)
Town Clerk

Audrey Ebel

(Facsimile signature)
Town Treasurer

Audrey Ebel

(Facsimile signature)
Mayor

David J. Burke

2.03 Preparation and Execution of Bonds. The bonds shall be forthwith prepared for execution under the direction of the Town Clerk. When prepared, the bonds shall be executed on behalf of the Town by the signatures of the Mayor and Town Treasurer and countersigned by the Town Clerk; provided, that signatures of two of such officers may be printed facsimiles of their signatures. The interest coupons appurtenant to the bonds shall be executed and authenticated by the printed, engraved or lithographed facsimile signatures of such officers, and on the reverse side of each bond shall be printed a copy of the legal opinion to be rendered by bond counsel, authenticated by the certificate and facsimile signatures of such officers. The bonds shall be sealed with the corporate seal or a printed facsimile of the corporate seal of the Town. The printed bonds shall be delivered to the Town Treasurer, and after registering the bonds in the manner specified in Title 7, Chapter 6, Part 2, Montana Code Annotated, as amended, the Town Treasurer shall cause them to be delivered to *D. A. Davidson & Co* of *Missoula, Montana*, as purchasers thereof, upon payment of the purchase price as specified in the contract of sale heretofore made and executed, which contract is hereby approved, ratified and confirmed, and the purchaser shall not be obligated to see to the application of the purchase price.

Section 3. Water System Fund.

3.01 Bond Proceeds and Revenues Pledged and Appropriated. A fund to be designated as the Water System Fund is established and shall be maintained as a separate and special bookkeeping account on the official books of the Town until all bonds issued hereunder and interest and redemption premiums due thereon have been fully paid, or the Town's obligation with reference to such bonds has been discharged as provided in this ordinance. All proceeds of bonds issued hereunder and all other funds hereafter received or appropriated for purposes of the municipal water system are appropriated to this Fund. All gross revenues derived from the operation of the water system are irrevocably pledged and appropriated and shall be credited to the Fund as received. Such gross revenues include all gross income and receipts from rates, fees, charges and rentals imposed from connections with and for the availability, benefit and use of the system as now constituted and of all replacements and improvements thereof and additions thereto, and from penalties and interest thereon, and from any sales of property acquired for the system and all income received from the investment of such gross revenues; but not any special assessments or taxes levied for construction of any part of the system. The Fund shall be subdivided into separate accounts as designated and described in Sections 3.02 to 3.06, to segregate income and expenses received, paid and accrued for the respective purposes described in those sections. The gross revenues received in this Fund shall be apportioned monthly commencing July 1, 1979, which apportionment is hereinafter referred to as the "monthly apportionment."

3.02 Construction Account. The Construction Account shall be used only to pay as incurred and allowed costs which under accepted

accounting practice are capital costs of the improvement described in section 1, and of such future reconstructions, improvements, betterments or extensions of the water system as may be authorized in accordance with law; including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, interest accruing on bonds issued hereunder during the period of construction of facilities financed thereby and for six months thereafter, if and to the extent that the Revenue Bond Account is not sufficient for payment of such interest, reimbursement of any advances made from other Town funds, and all other expenses incurred in connection with the construction and financing of any such undertaking. To the Construction Account shall be credited as received all proceeds of bonds issued hereunder, except amounts appropriated to the Revenue Bond Account in section 3.04, and all other funds appropriated by the Town for the water system improvement, and all income received from the investment of the Construction Account.

3.03 Operating Account. On each monthly apportionment there shall first be set aside and credited to the Operating Account, as a first charge on the gross revenues, such amount as may be required over and above the balance then held in the account to pay the reasonable and necessary operating expenses of the system which are then due and payable, or are to be paid prior to the next monthly apportionment. The term "operating expenses" shall mean the current expenses, paid or accrued, of operation, maintenance and current repair of the water system and its facilities, as calculated in accordance with sound accounting practice, and shall include, without limitation, administrative expenses of the Town 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 monthly but may reasonably be expected to be incurred in accordance with sound accounting practices. Such expenses shall not include any allowance for depreciation or 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 Town, except such portion as shall represent reasonable compensation for the performance of duties necessary to the operation of the water system. There shall also be credited to this account forthwith upon the delivery of the initial issue of bonds under this ordinance and from available funds other than bond proceeds the sum of \$ 0 to establish an Operating Reserve, which sum shall be maintained by additional transfers upon each monthly apportionment whenever necessary, or may be augmented by transfers of additional amounts from the Surplus Account described below if determined by the Town Council to be necessary to meet contingencies arising in the operation and maintenance of the system. Moneys in the Operating Account shall be used solely for the payment of current operating expenses of the water system as herein defined. The net revenues of the municipal water system as referred to in this ordinance, are hereby defined to include the entire amount of such gross revenues remaining upon each such monthly apportionment, after crediting to the Operating

Account the amount required hereby, including sums required to maintain the Operating Reserve in the minimum amount therein stated.

3.04 Revenue Bond Account. Upon each monthly apportionment there shall be set aside and credited to the Revenue Bond Account out of the net revenues an amount equal to not less than one-twelfth of the total sum of the principal and interest to become due within the then next succeeding twelve months on all outstanding bonds payable from the Revenue Bond Account. In addition to and from the net revenues remaining after such credit, the Town shall credit to the Revenue Bond Account upon each monthly apportionment, commencing MAY 1, 1984, an amount sufficient to establish by MAY 1, 1984, and thereafter maintain a reserve in said Account equal to the maximum amount of principal and interest coming due in any future calendar year on all of the bonds payable therefrom. The aggregate amount credited to the Revenue Bond Account in each of the five fiscal years immediately preceding MAY 1, 1984, to establish the reserve herein required shall not be less than one-fifth of the total amount of said reserve. Moneys from time to time held in the Revenue Bond Account shall be disbursed only to meet payments of principal and interest on bonds payable therefrom as such payments become due, and the reserve therein shall be used only to pay maturing principal and interest when other moneys within the account are insufficient therefor; provided, that on any date when all outstanding bonds of the issue herein authorized are due or prepayable by their terms, if the amount then on hand in the Revenue Bond Account, including the reserve, is sufficient with other moneys available for the purpose to pay all such bonds and the interest accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when moneys in the Revenue Bond Account are temporarily insufficient therefor, such payment shall be advanced out of any net revenues theretofore segregated and then on hand in the Replacement and Depreciation Account or the Surplus Account.

3.05 Replacement and Depreciation Account. There shall next be set aside and credited, upon each monthly apportionment, to the Replacement and Depreciation Account such portion of the net revenues of the system, in excess of the current requirements of the Revenue Bond Account, including the bond reserve therein (which portion of the net revenues is referred to herein as "surplus net revenues"), as the Town Council shall determine to be required for the accumulation of a reasonable allowance for depreciation of the system and for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Moneys in this account shall be used only for the purposes above stated or, if so directed by the Council, to redeem revenue bonds which are prepayable according to their terms, to pay principal or interest when due thereon as required in part 3.04 hereof, or to pay the cost of improvements to the system; provided, that in the event that the Town shall hereafter issue bonds for the purpose of financing the construction and installation of additional improvements or additions to the water system, but which additional bonds cannot, upon the terms and conditions provided in section 4, be made payable from the Revenue Bond Account, surplus net revenues from time to time received may

be segregated and paid into one or more separate and additional accounts for the payment of such bonds and interest thereon, in advance of payments required to be made into the Replacement and Depreciation Account.

3.06 Surplus Account. Any amount of the surplus net revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore a current deficiency in the Revenue Bond Account as provided in part 3.04 hereof, may be used for any of the following purposes and not otherwise:

(a) To redeem and prepay bonds payable from the net revenues when and as such bonds become prepayable according to their terms; or

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

(c) To be held as a reserve for redemption and prepayment of bonds payable from the net revenues which are not then but will later be prepayable according to their terms; or

(d) To pay for repairs of or for the construction and installation of improvements or additions to the water system; or

(e) To restore the Operating Reserve or increase the same when determined to be necessary by the Town Council.

No moneys 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 Town, nor shall such moneys at any time be loaned to other municipal funds or invested in warrants, special improvement bonds or other obligations payable from other funds, except as provided in section 3.07.

3.07 Deposit and Investment of Funds. The Town Treasurer shall cause all moneys 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 Title 7, Chapter 6, Part 2, Montana Code Annotated, as amended, in a deposit account or accounts which shall be maintained separate and apart from all other bank accounts of the Town of Stevensville, so long as any of the bonds issued hereunder and the interest thereon shall remain unpaid; and the balance in such accounts, except such portion thereof as shall be guaranteed by federal deposit insurance, shall at all times 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 Title 7, Chapter 7, Part 2, Montana Code Annotated, as amended. Any of such moneys not necessary for immediate use may be

deposited with such depository banks in savings or time deposits. No moneys shall at any time be withdrawn from such deposit accounts except for the purposes of the Water System Fund as defined and authorized in this ordinance; except that moneys from time to time on hand in this fund may at any time, in the discretion of the Town Council, be invested in securities which are direct, general obligations of the United States of America maturing and bearing 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 the reserve in the Revenue Bond Account, the Replacement and Depreciation Account and the Surplus Account may be invested in said securities maturing not later than ten years from the date of the investment; and provided further, that moneys pertaining to the Surplus Account of the Water System Fund may, in the discretion of the Council, be invested in any securities which are direct, general obligations of the Town of Stevensville. Income received from the deposit or investment of moneys in said accounts shall be credited to the account from whose moneys the deposit was made or the investment was purchased, and handled and accounted for in the same manner other moneys in that account.

Section 4. Priorities and Additional Bonds.

4.01 Priority of Bond Payments. Each and all of the bonds herein authorized shall be equally and ratably secured by and payable out of the net revenues of the municipal water system without preference or priority of any one bond over any other by reason of serial number or otherwise; provided that if at any time the net revenues on hand in the Water System Fund as defined in section 3.04 hereof are insufficient to pay principal and interest then due on all such bonds, any and all moneys 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 in order of their maturities, the earliest maturing bonds to be paid first, and pro rata in payment of bonds maturing on the same date.

4.02 Refunding Revenue Bonds. The Town reserves the right and privilege of refunding any or all of the bonds herein authorized and referred to, but only subject to the following terms and conditions:

(a) Any matured bonds may be refunded if moneys available for the payment thereof at maturity, within the limitation prescribed in section 4.01 hereof, should at any time be insufficient to make such payment in full.

(b) Any bonds may be refunded prior to maturity, as and when they become prepayable according to their terms.

(c) Provision may be made for the payment and refunding of any unmatured bonds by the deposit with a duly qualified depository bank, as escrow agent, of a sufficient amount of cash, or of

bonds or other general obligations of the United States Government, to pay the principal amount of such outstanding bonds with interest to the earliest subsequent date, if any, upon which the same may be called for redemption and prepayment, and with interest to the maturity of any such bonds which are not subsequently prepayable.

(d) Any refunding revenue bonds issued for the above purposes may be made payable from the net revenues on a parity as to interest with all then outstanding bonds of the issue herein authorized, provided that (1) the maturity of each refunding revenue bond shall be subsequent to the last maturity of any then outstanding revenue bonds of this issue which are not refunded or to be refunded out of moneys on deposit with such escrow agent, and (2) no bondholder shall be required to accept a refunding revenue bond in exchange for any bond owned by him.

4.03 Other Parity Bonds. The Town reserves the right to issue additional bonds, payable from the Revenue Bond Account of the Water System Fund hereinafter created, on a parity as to both principal and interest with the bonds of the series herein authorized, if the net revenues of the water system as defined in section 3.04 hereof, for the last complete fiscal year preceding the issuance of such additional bonds have equaled at least 130% of the maximum amount of principal and interest payable from said Revenue Bond Account in any subsequent calendar year during the term of the outstanding bonds, on all bonds then outstanding and on the additional bonds proposed to be issued. For the purpose of the foregoing computation, the net revenues for the fiscal year preceding the issuance of additional bonds shall be the net revenues shown by the official books and records of the Town, except that if the rates and charges for water service have been changed since the beginning of such preceding fiscal year, then the rates and charges in effect at the time of issuance of the additional bonds shall be applied to the quantities of service actually rendered and made available during such preceding fiscal year to ascertain the gross revenues, from which there shall be deducted to determine the net revenues, the actual operation and maintenance cost for the last complete fiscal year shown by the official books and records of the Town plus any additional annual costs of operation and maintenance which the engineer for the Town estimates will be incurred because of the improvement of extension of the water system to be constructed from the proceeds of the additional bonds proposed to be issued. In no event shall any additional bonds be issued and made payable from the Revenue Bond Account if the Town is then in default in any payment of principal or interest on any outstanding bonds payable therefrom, or if there then exists any deficiency in the balances required by this ordinance to be maintained in any of the accounts of the Water System Fund.

4.04 Subordinate Lien Bonds. Notwithstanding the above provisions of section 4, nothing contained in this ordinance or in the bonds authorized and issued hereunder shall be construed to preclude the Town from issuing additional bonds when necessary for the enlargement, improvement or extension of the municipal water system,

provided such additional bonds, whether constituting a general obligation of the Town or payable solely from water revenues, are expressly made a charge on and are payable only from the surplus net revenues of the system as defined in section 3.05 of this ordinance, and are not superior to or on a parity with the bonds herein authorized to be payable from the Revenue Bond Account.

Section 5. Covenants.

5.01 General. The Town covenants and agrees with the purchasers and the holders from time to time of all bonds issued under and secured by the provisions of this ordinance that the recitals contained in section 1 hereof are correct; and that until all such bonds are fully paid or the Town's liability with reference thereto is fully discharged as provided in this ordinance, it will continue to hold, maintain and operate its municipal water system as a public utility and 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 section 3, and will issue a lien or charge on the income or revenues of the water system except upon the conditions and in the manner prescribed in section 4, and will perform and cause all other officers and employees of the Town to perform and enforce each and all of the additional covenants and agreements set forth in this section 5.

5.02 Competing Service. The Town will not establish or authorize the establishment of any other system for the public supply of service or services in competition with any or all of the services supplied by the facilities of the municipal water system.

5.03 Property Insurance. The Town will cause all buildings, properties, fixtures and equipment constituting a part of its water 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 fire, explosion, and such other hazards and risks as are ordinarily insured against, by public utilities owning and operating properties of a similar character and size, provided that if at any time the Town is unable to obtain such 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 and 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 issued hereunder. 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 Town shall supply the deficiency from revenues on hand in the Replacement and Depreciation Account and Surplus Account, and may supply it from any other Town funds, but is not obligated to the bondholders so to do unless the deficiency results from breach of the covenant in this section 5.03.