

A RESOLUTION DIRECTING THE UNDERTAKING FOR THE RECONSTRUCTION, IMPROVEMENT, BETTERMENT AND EXTENSION OF THE WATER SYSTEM OF THE TOWN OF STEVENSVILLE, CREATING SPECIAL FUNDS AND ACCOUNTS FOR THE ADMINISTRATION OF THE MONEYS DERIVED THEREFROM, AUTHORIZING AND DIRECTING THE ISSUANCE AND SALE OF REVENUE BONDS TO PAY THE COST OF SAID UNDERTAKING AND DEFINING THE TERMS AND MANNER OF PAYMENT OF THE BONDS AND THE SECURITY THEREOF

BE IT RESOLVED BY THE COUNCIL OF THE TOWN OF STEVENSVILLE, MONTANA AS FOLLOWS:

Section 1. Findings and Authorization

1.01 - It is hereby found, determined and declared that the Town of Stevensville has been and is now duly authorized by the provisions of Title 11, Chapter 23, Montana Code Annotated, as amended, and by resolution, which such authorization was approved by a vote of all 4 councilpersons in favor thereof and none against the same, and by other proceedings heretofore duly taken thereunder, to issue revenue bonds in the aggregate principal amount of \$110,000 for the purpose of paying part of the costs of improving, extending, reconstructing and bettering its municipal water system; to prescribe and collect just and equitable rates, charges and rentals for connections with the system and for services, facilities and commodities directly or indirectly furnished thereby; and to pledge and appropriate to the payment of the bonds the net revenues to be derived from the operation of the water system, including improvements, betterments or extensions thereof hereafter constructed or acquired; that such rates, charges and rentals will be sufficient during the useful life of said improvement and the term of the bonds herein authorized to produce net revenues more than adequate to pay the principal and interest coming due on the bonds herein authorized, and to create and maintain reasonable reserves therefor as herein prescribed; and that there are no bonds outstanding which are payable from or constitute a lien against the net revenues of the water system.

1.02 The total cost to the Town of improving, extending, reconstructing and bettering the municipal water system is presently estimated to be \$110,000.00, which cost will be paid from the proceeds of the revenue bonds herein authorized to be issued and revenues of the Town on hand, and available for such purposes.

1.03 This council has by resolution No. 33, adopted 21 of August 1978, awarded the sale of \$110,000 water system revenue bonds to D.G. Davidson Co, and associates, of Great Falls, Montana, and it is hereby found, determined and declared to be necessary and desirable for the Town of Stevensville

to proceed with the issuance of the bonds on the terms and conditions as provided in this resolution No. 42.

Section 2. Bonds.

2.01 The Town shall issue its negotiable coupon bonds to be designated as Water System Revenue Bonds, in the aggregate principal amount of \$110,000. The bonds shall be dated as of July 1, 1978, and shall be 40 in number and numbered from 1 through 40, in the denomination of \$2,700 for the first 39 and \$4,700 for the last bond. The bonds shall mature in order of serial numbers on January 1 and July 1 in the years and amounts set forth below, and bonds maturing in such years and amounts shall bear interest from date of issue until paid or discharged at the annual rate set forth opposite such years and amounts, respectively:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
1979	\$ 5,400		1989	\$ 5,400	
1980	5,400		1990	5,400	
1981	5,400		1991	5,400	
1982	5,400		1992	5,400	
1983	5,400		1993	5,400	
1984	5,400		1994	5,400	
1985	5,400		1995	5,400	
1986	5,400		1996	5,400	
1987	5,400		1997	5,400	
1988	5,400		1998	7,400	

Interest on the bonds shall be payable on each January 1 and July 1, commencing on January 1, 1979. Bonds of the issue shall be payable on their respective stated maturity dates and shall each be subject to redemption and prepayment at the option of the Town on any interest payment date at par plus accrued interest to the date fixed for redemption thereof, and in inverse order of their serial numbers; provided, that not less than 30 days before the date specified for redemption of any bond, notice of the call thereof shall be mailed by the Town Treasurer, by registered mail, to the holder, is known, and to the bank at which principal and interest are then payable, and shall also be published in one issue of a newspaper at Missoula, Montana, and in one issue of a daily financial newspaper published in New York City. The Town Treasurer is directed to maintain a record of the names and addresses of the holders of prepayable bonds of the issue, so far as such information is made available to him, for the purpose of mailing such notices. The principal of and interest on the bonds shall be payable at *Office of Town Clerk* *Levensville, 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.

2.02 The bonds herein authorized and the interest coupons appurtenant thereto shall be in substantially the following form:

5.04. Liability Insurance and Surety Bonds. The Town will carry insurance against liability of the Town and its employees for damage to persons and property resulting from the operation of the system in such amounts as the Town determines from time to time to be necessary or advisable by reason of the character and extent of such operation. 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 Town. 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 and section 5.03 constitute part of the Operating Expenses of the system, but no insurable liabilities of the Town 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 Revenue Bond Account.

5.05 Disposition of Property. The Town will not mortgage, lease, sell, or otherwise dispose of any real or personal properties of the water system, unless:

(a) prior to or simultaneous with such mortgage, lease, sale or other disposition, all of the bonds issued hereunder and then outstanding shall be discharged as provided in section 7; or

(b) 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; or

(c) the mortgage, lease, sale or other disposition will not prevent the Town from complying with the provisions of this ordinance; and

(d) in any event referred to in clause (b) or (c), all proceeds of the mortgage, lease, sale or other disposition of such properties are deposited into the Water System Fund.

5.06 Books and Records. The Town 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 water system, the monthly gross revenues derived from its operation, and the segregation and application of the gross revenues in accordance with this ordinance, in such reasonable detail as may be determined by the Town in accordance with generally accepted accounting practices and principles. It will cause such books to be maintained on the basis of a fiscal year commencing July 1 and ending June 30 and to be audited annually within 120 days after the close of each fiscal year by an independent Certified Public Accountant, who shall be an accountant or firm of such accountants duly licensed, registered and entitled to practice and practicing as such under the laws of the State of Montana, appointed and paid by the Town, who is in fact independent and not under the domination of the Town, does not have any substantial interest, direct or indirect, with the Town, and is not connected

with the Town as an officer or employee but may be regularly retained to make annual or other periodic reports to the Town. The report of each such audit will be mailed to the original purchaser and the bank designated as agent for the payment of each issue of bonds hereunder, and to D. A. Davidson, Inc., and will be made available for inspection by the holder of any of the bonds issued hereunder. The report, in addition to whatever matters may be thought proper by the Accountant to be included therein, shall include the following:

(a) a statement in detail of the income and expenditures of the water 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 water system at the end of the fiscal year;

(d) the amount on hand in each account of the Water System 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 audit shows full compliance by the Town with the provisions of this ordinance during the year covered thereby, including proper segregation of the capital expenditures from operating expenses, maintenance of the required balance of the Revenue Bond Account, and receipt of net revenues during each fiscal year commencing after MAY 1, 1986, at least equal to 130% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent calendar year; or, if the audit should reveal that the revenues have been insufficient for compliance with this ordinance, or that the methods used in accounting for such revenues were contrary to any provision of this ordinance, the report of audit shall include a full explanation thereof, together with the accountant's recommendation for such change in rates or accounting practices or in the operation of the system as may be required.

5.07 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 billing and collection of the sewer rates, charges and rentals shall be payable from the Operating Account.

5.08 Handling of Funds. The employees of the Town, under the direction and control of the Town Treasurer, shall keep books of account, issue statements and collect bills for the rates, charges and rentals for the services and facilities provided by the municipal water system and for other money currently receivably on account of that system, and shall, to the extent required by section 5.10,

provide for the discontinuance of service in case of nonpayment for services or noncompliance with regulations. All money collected with respect to the system shall be deposited daily with the Town Treasurer, who shall give a receipt therefor and deposit a copy with the Town Clerk. The Treasurer and Clerk shall be bonded at all times with a surety company authorized to do business in Montana, in the amount of at least \$5,000, to assure the faithful carrying out of such duties. Any failure on the part of the Treasurer or Clerk to comply and to enforce compliance on the part of all officers and employees concerned with the provisions of this ordinance, and with the Town's other regulations respecting the water system, shall constitute malfeasance for which the Treasurer or Clerk and the surety on his bond shall be personally liable. In the event of default on the part of the Town in the payment of principal of or interest on any bond promptly as each falls due, or in the keeping of any covenants herein contained, and if such default shall continue for a period of sixty days the Council will appoint a special superintendent for the system, with the power and responsibility to operate the system for the Town of Stevensville, and to recommend to the Council such revisions of the rates and charges and operating policies as may be necessary to comply with this ordinance, and to assure that the net revenues will be sufficient to pay all bond principal and interest, and he shall in all things so operate the system as to fully comply with all the requirements and provisions of this ordinance. 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 holder or holders shall have the right to proceed at law or in equity to require the performance of the covenants herein contained, in any form of action which shall to them seem appropriate.

5.09 Rules and Regulations. The rules and regulations for operation of the water system and the use of water service from the system shall be as provided in the existing ordinances of the Town, and any ordinances subsequently adopted amendatory thereof or supplemental thereto.

5.10 Billings. The charges for water services will 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 water system within sixty (60) days after notice of violation thereof (which notice shall be given promptly upon discovery of any such violation), the Town 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 Town.

5.11 Arbitrage. The Town will make no use of the proceeds of bonds issued hereunder which, if such use had been reasonably expected on the date of issue thereof, would have caused them to be arbitrage bonds under the provisions of Section 103(d) of the United States Internal Revenue Code.

5.12 Remedies. Any holder of any bond issued and secured under the provisions of this ordinance shall have the right, either at law or in equity, by suit, action or other proceedings, to protect and enforce the rights of all holders of such bonds and to compel the performance of any and all of the covenants required herein to be performed by the Town, 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 gross revenues and the application and use thereof. The holders of a majority in principal amount of such 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. However, nothing herein shall impair the absolute and unconditional right of the holder of each such bond to receive payment of the principal of and interest on such bond as such principal and interest respectively become due, and to institute suit for the enforcement of any such payment. In the event of default in any such payment, any court having jurisdiction of the action may appoint a receiver to administer the water system on behalf of the Town with power to charge and collect rates, fees and charges sufficient to provide for the payment of the operating expenses and for the payment of any bonds or obligations outstanding against the system, and to apply the gross revenues in conformity with this ordinance and the laws of the State of Montana.

5.13 Rate Covenant. While any bonds payable from the Revenue Bond Account are outstanding and unpaid, the rates for all services furnished and made available by the water system to the Town and to its inhabitants, and to all customers within or without the boundaries of the Town, 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 accruing interest thereon, and the proper and necessary allowances for the depreciation of the system, and no free service shall be provided to any person or corporation. The rates, charges and rentals to be initially charged against all recipients of water service, as described in section 5.14 hereof, are calculated, on the basis of anticipated usage, to be sufficient to produce in each fiscal year commencing after MAY 1, 1984, net revenues available for the Revenue Bond Account in an amount at least equal to 130% of the sum of the maximum amount of principal and interest to become due in any subsequent calendar year on the bonds herein authorized, the establishment of such ratio having been deemed necessary in order to sell the bonds upon terms most advantageous to the Town. The excess of the net revenues over the annual principal and interest and reserve requirements of the bonds may be used as authorized in section 3 of this ordinance. The bonds may be prepaid according to their terms, and in the estimation of the Council any excess, prior to any prepayment date, of net revenues over principal and interest payments actually due and the reserve required to be maintained therefor, will be needed to pay or to

provide reserves for payment of replacements, renewal 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 Council may be used to prepay bonds and thereby to reduce the interest cost thereon to the Town and to the persons served by the water system. Accordingly, it is covenanted and agreed that such rates, charges and rentals shall be maintained, and shall be revised whenever and as often as may be necessary, according to schedules such that the gross revenues will be at least sufficient to pay the current expenses of operation and maintenance as herein defined and to maintain the operation reserve herein established and to produce net revenues fulfilling each of the following conditions:

(a) That the net revenues received during each fiscal year commencing after 1974, 1980, shall be not less than 130% of the sum of the maximum amount of principal and interest payable from the Revenue Bond Account during any subsequent calendar year.

(b) That if at the close of any fiscal year the net revenues actually received during such year have been less than required in paragraph (a) hereof, the Town will forthwith prepare a schedule of altered rates, charges and rentals which are just and equitable and sufficient to produce net revenues in such amount, and will do all things necessary to the end that such schedule will be placed in operation at the earliest possible date.

(c) That the minimum net revenues received in any fiscal year for compliance with part (a) hereof, based on the principal and interest requirements of the bonds herein authorized is \$ . This amount may be reduced in the event any of said bonds are redeemed prior to maturity as hereinabove authorized; provided that such net revenues shall not be less than required by part (a) hereof.

5.14 Existing Rates. Until modified in accordance with law the rates, charges and rentals to be imposed and collected for water service rendered and made available by the system, and for connections thereto, shall be those prescribed by , adopted , 19 .

## Section 6. Amendments.

6.01 Amendments Without Bondholder Consent. The Town reserves the right to amend this 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 Town Council may deem necessary or desirable and not inconsistent with this ordinance, and which shall not adversely affect the interests of the holders of bonds issued hereunder, or for the purpose of adding to the covenants and agreements herein contained, or to the gross revenues herein pledged, other covenants and agreements thereafter to be observed and additional gross revenues thereafter appropriated to the Water System Fund, for the pur-

pose of surrendering any right or power herein reserved to or conferred upon the Town or for the purpose of authorizing the issuance of additional bonds in the manner and subject to the terms and conditions prescribed in section 4. Any such amendment may be adopted by ordinance, without the consent of the holders of any of the bonds issued hereunder.

6.02 Amendments With Bondholder Consent. With the consent of holders of bonds issued hereunder as provided in section 6.03, the Town may from time to time and at any time amend this ordinance by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof, or of any amending ordinance, except that no amendment shall be adopted at any time without the consent of the holders of all bonds issued hereunder which are then outstanding, if it would extend the maturities of any such bonds, would reduce the rate or extend the time of payment of interest thereon, would reduce the amount or extend the time of payment of the principal or redemption premium thereof, would give to any bond or bonds any privileges over any other bond or bonds, would reduce the sources of gross revenues appropriated to the Water System Fund, would authorize the creation of a pledge of said gross revenues prior to or on a parity with the bonds (except as is authorized by section 4), or would reduce the percentage in principal amount of such bonds required to authorize or consent to any such amendment.

6.03 Notice and Consent. Any amendment adopted pursuant to section 6.02 shall be made by ordinance, published in a financial newspaper of national circulation published in New York City, New York, and shall become effective only upon the filing of written consents with the Town Clerk, signed by the holders of not less than two-thirds in principal amount of the bonds issued hereunder which are then outstanding or, in the case of an amendment not equally affecting all outstanding bonds, by the holders of not less than two-thirds in principal amount of the bonds adversely affected by such amendment. Any written consent to an amendment may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by bondholders in person or by agent duly appointed in writing, and shall become effective when delivered to the Town Clerk. Any consent by the same bond with respect to any amendment adopted by the Town pursuant to such consent, provided that any bondholder may revoke his consent with reference to any bond by written notice received by the Town Clerk before the amendment has become effective. In the event that unrevoked consents of the holders of the required amount of bonds have not been received by the Town Clerk within one year after the publication of any amendment, the amendment and all consents theretofore received shall be of no further force and effect.

6.04 Proof. 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, shall be sufficient for any purpose of this ordinance and shall be conclusive in favor of the Town if



made in the manner provided in this section 6.04. 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 certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the person signing it acknowledged to him the execution thereof. The amount of bonds held by any person by or for whom a consent is given, and the distinguishing numbers of such bonds, and the date of his holding the same, may be proved by a certificate executed by any trust company, bank or other depository, wherever situated, if such certificate is deemed satisfactory by the Town Clerk, showing that at the date therein mentioned such person had on deposit with such depository, or exhibited to it, the bonds therein described; or such facts may be proved by the certificate or affidavit of the person executing such consent, if such certificate or affidavit is deemed satisfactory by the Town Clerk. The Town may conclusively assume that such ownership continues until written notice to the contrary is received by the Town Clerk. The fact and date of execution of any such consent and the amount and distinguishing numbers of bonds held by the person executing the same may also be proved in any other manner which the Town Council may deem sufficient; but the Council may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable.

#### Section 7. Defeasance.

7.01 General. When the liability of the Town on all bonds issued under and secured by this ordinance and all coupons appertaining thereto has been discharged as provided in this section, all pledges, covenants and other rights granted by this ordinance to the holders of such bonds shall cease.

7.02 Payment. The Town may discharge its liability with reference to all bonds and coupons which are due on any date by depositing with the paying agent or agents for such bonds on or before that date a sum sufficient for the payment thereof in full; or if any bond or coupon shall not be paid when due, the Town may nevertheless discharge its liability with reference thereto by depositing with the paying agent or agents a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

7.03 Prepayable Bonds. The Town may also discharge its liability with reference to any prepayable bonds which are called for redemption on any date in accordance with their terms, by depositing with the paying agent or agents 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 the ordinance authorizing such bonds.

7.04 Escrow. The Town may also at any time discharge its liability in its entirety with reference to the issue of bonds described in section 2, or with reference to any other issue of bonds secured by the provisions of this ordinance, subject to the provisions of law now or hereafter authorizing and regulating such action,

by calling all prepayable bonds of such issue for redemption on the next date when they may be prepaid in accordance with their terms, by giving the notice required for such redemption, and by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are 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 to provide funds sufficient to pay all principal, interest and redemption premiums to become due on all bonds of the issue on or before said redemption date.

Section 8. Repeals and Effective Date.

8.01 Repeal. All provisions of ordinances, resolutions and other actions and proceedings of the Town of Stevensville and of the Town Council which are in any way inconsistent with the terms and provisions of this ordinance are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this ordinance.

8.02 Effective Date. This ordinance shall be in full force and effect from and after its final passage and approval according to law.

Passed by the Town Council and approved by the Mayor of the Town of Stevensville, Montana, this 9th day of April, 19 79  
As an emergency ordinance.

Approved: \_\_\_\_\_

Mayor

Attest: \_\_\_\_\_

Town Clerk

(SEAL)

RESOLUTION OF THE TOWN OF STEVENSVILLE

RESOLUTION NO. 42

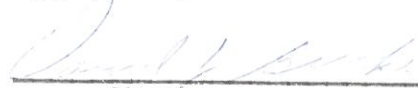
RESOLUTION PROVIDING FOR INTERIM FINANCING FOR WATER SYSTEM IMPROVEMENTS, ECONOMIC DEVELOPMENT ADMINISTRATION.

WHEREAS, under the terms of grant #EDA05-11-01779 from the Economic Development Administration, the Town of Stevensville, Ravalli County, Montana, must provide interim funding during the project;

NOW THEREFORE, be it resolved by the Town Council of the Town of Stevensville, Montana, that the Mayor and Town Clerk be given authority to borrow said interim financing as needed from the First State Bank of Stevensville, Montana.

Passed and adopted this 16th day of April, 1979

Approved:

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
Town Clerk