

RESOLUTION 2020-14

A RESOLUTION OF CHEROKEE METROPOLITAN DISTRICT, EL PASO COUNTY, COLORADO, AUTHORIZING THE ISSUANCE AND SALE OF ITS WATER AND WASTEWATER ENTERPRISE REVENUE BONDS, SERIES 2020, PROVIDING FOR THE SOURCES OF PAYMENT OF THE BONDS, AND PROVIDING OTHER DETAILS CONCERNING THE BONDS AND THE SYSTEM.

BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CHEROKEE METROPOLITAN DISTRICT, EL PASO COUNTY, COLORADO:

ARTICLE I.

DEFINITIONS, INTERPRETATION, RATIFICATION AND EFFECTIVE DATE

Section 1.01 Definitions.

A. Definitions. The terms in this Section for all purposes of this Resolution and of any resolution amendatory hereof or supplemental hereto, or relating hereto, and of any other resolution or any other document pertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

“acquire” or “acquisition” means the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any body corporate and politic therein, or any other Person, the endowment, bequest, devise, transfer, assignment, option to purchase, other contract, or other acquisition, or any combination thereof, of any properties pertaining to the System, or an interest therein, or any other properties herein designated.

“Acquisition Fund” means the 2020 Acquisition Fund.

“Board” means the Board of Directors of the District.

“Bond Counsel” means an attorney or a firm of attorneys, designated by the District and satisfactory to the Paying Agent of nationally recognized standing in matters pertaining to the tax status of interest on bonds issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“Bond Fund” means the 2020 Bond Fund.

“Bond Requirements” means the principal of, any prior redemption premiums due in connection with, and the interest on the Bonds, any Parity Bonds, or other securities payable from the Net Pledged Revenues and heretofore or hereafter issued, if any, or such part of such securities as may be designated.

“Bonds” means those securities issued hereunder and designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2020”; provided, however, that should the District determine in a Sale Certificate to not issue the Bonds, any specific reference herein to such specific series will be of no force and effect.

“Book-entry form” or “book-entry system” means, with respect to the Bonds, a form or system, as applicable, under which physical Bond certificates in fully registered form are registered only in the name of The Depository Trust Company or its nominee as Owner, with the physical Bond certificates “immobilized” in the custody of The Depository Trust Company. The book-entry system maintained by and the responsibility of The Depository Trust Company and not maintained by or the responsibility of the District or the Paying Agent is the record that identifies, and records the transfer of the interests of, the owners of book-entry interests in the Bonds.

“Business Day” means a day of the year, other than a Saturday or Sunday, other than a day on which commercial banks located in the city in which the principal corporate trust office of the Paying Agent is located are required or authorized to remain closed and other than a day on which the New York Stock Exchange is closed.

“Capital Improvements” means the acquisition of land, easements, facilities, and equipment (other than ordinary repairs and replacements), and those property improvements or any combination of property improvements which will constitute enlargements, extensions or betterments to the System and will be incorporated into the System.

“Closing Date” means the date of delivery of and payment for the Bonds.

“Code” means the Internal Revenue Code of 1986, as amended to the date of delivery of the Bonds, and the regulations promulgated thereunder.

“Combined Maximum Annual Principal and Interest Requirements” means the largest sum of the principal of and interest on the Bonds and any Outstanding Parity Bonds, excluding any securities the principal of which is payable within less than one year from the date on which issued, to be paid during any one Fiscal Year for the period beginning with the Fiscal Year in which such computation is made and ending with the Fiscal Year in which any Bond or other such security last becomes due at maturity or on a Redemption Date, whichever time is later (but excluding any reserve requirement to secure such payments unless otherwise expressly provided). The word “principal,” as used in the preceding sentence, means for all purposes of this paragraph, the principal which must be paid to security Owners, whether on stated maturity dates or on mandatory Redemption Dates, or otherwise. Any such computation shall be adjusted for all purposes in the same manner as is provided in Section 8.03 hereof.

“Commercial Bank” means a state or national bank or trust company which is a member of the Federal Deposit Insurance Corporation (or any successors thereto) and of the Federal Reserve System, which has a capital and surplus of \$10,000,000 or more, and which is located within the United States of America.

“Continuing Disclosure Certificate” means the Continuing Disclosure Certificate for the Bonds executed by the District in connection with the issuance of such Bonds, which

constitutes an undertaking pursuant to Rule 15c2-12 promulgated by the U.S. Securities and Exchange Commission.

“Cost of the Project” means all costs, as designated by the District, of the Project, or any interest therein, which cost, at the option of the District (except as may be otherwise limited by law) may include all, any one or other portion of the incidental costs pertaining to the Project, including, without limitation:

- (1) All preliminary expenses or other costs advanced by the District or advanced by the Federal Government, the State or by any other Person from any source, with the approval of the Board, or any combination thereof, or otherwise;
- (2) The costs of making surveys and tests, audits, preliminary plans, other plans, specifications, estimates of costs and other preliminaries;
- (3) The costs of contingencies;
- (4) The costs of premiums on any builders’ risk insurance and performance bonds during the construction, installation and other acquisition of the Project, or a reasonably allocated share thereof;
- (5) The costs of appraising, printing, estimates, advice, inspection, other services of engineers, architects, accountants, financial consultants, attorneys at law, clerical help and other agents and employees;
- (6) The costs of making, publishing, posting, mailing and otherwise giving any notice in connection with the Project and the issuance of the Bonds;
- (7) All costs and expenses of issuing the Bonds including, without limitation, fees of the Paying Agent, Bond Counsel, counsel to the Purchasers, counsel to the District, the financial advisor, rating agencies and printers to the extent not defrayed as an Operation and Maintenance Expense;
- (8) The costs of the filing or recording of instruments and the cost of any title insurance premiums;
- (9) The costs of funding any construction loans and other temporary loans pertaining to the Project and of the incidental expenses incurred in connection with such loans;
- (10) The costs of demolishing, removing, or relocating any buildings, structures, or other facilities on land acquired for the Project, and of acquiring lands to which such buildings, structures or other facilities may be moved or relocated;
- (11) The costs of machinery and equipment;
- (12) The costs of any properties, rights, easements or other interests in properties, or any licenses, privileges, agreements and franchises;

(13) The payment of the premium for an Insurance Policy, if any, issued by the Insurer and Reserve Fund Insurance Policy issued by the Surety Provider;

(14) The costs of labor, material and obligations incurred to contractors, builders and materialmen in connection with the acquisition and construction of the Project;

(15) The costs of amending any resolution or other instrument pertaining to the Bonds or otherwise to the System; and

(16) All other expenses pertaining to the Project.

“C.R.S.” means the Colorado Revised Statutes, as amended and supplemented as of the date hereof.

“CWRPDA” means the Colorado Water Resources and Power Development Authority.

“District” means the Cherokee Metropolitan District, El Paso County, Colorado, a quasi-municipal corporation and political subdivision of the State.

“Events of Default” means the events stated in Section 10.03 hereof.

“Federal Government” means the United States of America and any agency, instrumentality or corporation thereof.

“Federal Securities” means bills, certificates of indebtedness, notes, or bonds which are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States of America.

“Fiscal Year” means the calendar year or any other 12 month period hereafter selected by the District as its fiscal year.

“General Manager” means the General Manager of the District.

“Generally Accepted Accounting Principles” means accounting principles, methods and terminology followed and construed for enterprises which are employed in business comparable to the business of the District, as amended from time to time.

“Gross Pledged Revenues” means (i) all revenues, income, rents and receipts earned by the District from or attributable to the ownership and operation of the System, (ii) the proceeds of any insurance covering business interruption loss relating to the System, and (iii) interest earned on any moneys or investments which are required to be paid into any fund or account pledged to the payment of the Bonds or any Parity Bonds.

“improve” or “improvement” means the extension, reconstruction, alteration, betterment or other improvement by the construction, purchase or other acquisition of facilities, including, without limitation, appurtenant machinery, apparatus, fixtures, structures and buildings.

“Income Fund” means the special fund designated as the “Cherokee Metropolitan District, Water and Wastewater Enterprise Revenue Bonds, Gross Income Fund” created pursuant to Section 6.02 hereof.

“Independent Accountant” means any certified public accountant, or any firm of certified public accountants, duly licensed to practice and practicing as such under the laws of the State:

- (1) Who is, in fact, independent and not under the domination of the District;
- (2) Who does not have any substantial interest, direct or indirect, with the District, and
- (3) Who is not connected with the District as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the District.

“Independent Engineer” means an individual, firm or corporation engaged in the engineering profession of recognized good standing and having specific experience in respect of business and properties of a character similar to those of the System, which individual, firm or corporation has no substantial interest, direct or indirect, in the District and in the case of an individual, is not a member of the Board, or an officer or employee of the District, and in the case of a firm or corporation, does not have a partner, director, officer or employee who is a member of the Board or an officer or employee of the District.

“Insurance Policy” means the municipal bond new issue insurance policy, if any, issued by the Insurer that guarantees payment of principal of and interest on the Bonds when due.

“Insurer” means the issuer of an Insurance Policy, if any, as set forth in the Sale Certificate.

“Insurance Agreement” means any agreement entered into between the District and any Insurer pursuant to Section 2.13 of this Resolution.

“Investment Securities” means any securities or other obligations permitted as investments of moneys of the District under the laws of the State.

“Loan Agreements” means, collectively, the 2006 Loan Agreement and the 2012 Loan Agreement.

“Loans” means, collectively, the 2006 Loan and the 2012 Loan.

“Letter of Representations” means the Blanket Issuer Letter of Representations from the District to The Depository Trust Company in connection with the issuance of the Bonds in a book-entry system, as supplemented and amended from time to time.

“Moody’s” means Moody’s Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and assigns.

“Net Pledged Revenues” means the Gross Pledged Revenues less Operation and Maintenance Expenses, plus all proceeds of insurance in excess of or not applied to the repair and replacement of the System, and the proceeds of any sale, conveyance, or exchange of the System in excess of that applied to replace the System sold or exchanged.

“Official Statement” means the Official Statement delivered in connection with the original issuance and sale of the Bonds.

“Operation and Maintenance Expenses” means all actual maintenance and operation costs of the System incurred by the District in any particular period or charges made therefor during such period, but only if such charges are made in conformity with Generally Accepted Accounting Principles including amounts reasonably required to be set aside in reserves for items of Operation and Maintenance Expenses the payment of which is not then immediately required.

Such Operation and Maintenance Expenses include, but are not limited to, expenses for ordinary repairs, renewals and replacements of the System, salaries and wages, employees’ health, hospitalization, pension and retirement expenses, fees for services, materials and supplies, rents, administrative and general expenses, insurance expenses, legal, engineering, accounting, trustee, paying agent and financial advisory fees and expenses and costs of other consulting and technical services, taxes (except as set forth in the following paragraph), payments in lieu of taxes and other governmental charges, payments to the United States Treasury pursuant to Section 148(f) of the Code or similar requirement to pay rebate, fuel costs, and any other current expenses or obligations required to be paid by the District by law, all to the extent properly allocable to the System.

Such Operation and Maintenance Expenses do not include depreciation or obsolescence charges or reserves, amortization of intangibles or other bookkeeping entries of a similar nature, interest charges and charges for the payment of principal, or amortization, of bonded or other indebtedness of the District, costs, or charges made therefor, for capital additions, replacements, betterments, extensions or improvements to or retirements from the System which under Generally Accepted Accounting Principles are properly chargeable to the capital account or the reserve for depreciation, and do not include losses from the sale, abandonment, reclassification, revaluation or other disposition of any properties of the System nor such property items, including taxes and fuel, which are capitalized pursuant to the then existing accounting practice of the District.

“Outstanding” when used with reference to the Bonds, the Parity Bonds, or any other designated securities and as of any particular date means all the Bonds, the Parity Bonds, or any such other securities payable from the Net Pledged Revenues or otherwise pertaining to the System, as the case may be, in any manner theretofore and thereupon being executed and delivered:

- (1) Except any Bond, Parity Bond, or other security canceled by the District, by any paying agent, or otherwise on the District’s behalf, at or before such date;
- (2) Except any Bond, Parity Bond, or other security deemed to be paid as provided in Section 13.01 hereof or any similar provision of the resolution authorizing the issuance of such other security; and

(3) Except any Bond, Parity Bond or other security in lieu of or in substitution for which another Bond or other security shall have been executed and delivered pursuant to Section 3.06, Section 3.07 or Section 11.08 hereof or any similar provisions of the resolution authorizing the issuance of such other security.

“Owner” means the registered owner of any designated Bond, Parity Bond, or other designated security.

“Parity Bonds” means the Loans, the Prior Bonds and any securities hereafter issued payable from and having an irrevocable lien upon the Net Pledged Revenues on a parity with the Bonds.

“Parity Bond Resolutions” means the Loan Agreements, the resolutions authorizing the issuance of the Prior Bonds, and any resolutions or agreements hereafter entered into by the District with respect to Parity Bonds and, without duplication, any resolutions hereafter adopted by the Board authorizing the issuance of Parity Bonds.

“Paying Agent” means BOKF, NA, dba Colorado State Bank and Trust, Denver, Colorado, and being an agent of the District for the payment of the Bond Requirements due in connection with the Bonds, the registrar for the Bonds and for other administration of moneys pertaining to the Bonds, and includes any successor Commercial Bank as paying agent.

“Paying Agent Agreement” means the agreement between the District and the Paying Agent relating to the Bonds.

“Person” means a corporation, firm, other body corporate (including, without limitation, the Federal Government, the State, or any other body corporate and politic other than the District), partnership, limited liability company, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

“Policy Costs” means repayment of draws under a Reserve Fund Insurance Policy, if any, plus all related reasonable expenses incurred by the Surety Provider, plus accrued interest thereon.

“Preliminary Official Statement” means the Preliminary Official Statement delivered in connection with the original issuance and sale of the Bonds.

“President” means the Chairman of the Board of Directors and President of the District.

“Prior Bonds” means the 2012 Bonds and the 2013 Bonds.

“Project” means the land, facilities and rights constructed, installed, purchased and otherwise acquired for the System, the cost of which is to be defrayed with portion of the proceeds of the Bonds and which constitutes Capital Improvements.

“Purchasers” means RBC Capital Markets, LLC, Denver, Colorado, and Piper Sandler & Co., Denver, Colorado.

“Purchase Contract” means the Bond Purchase Agreement between the District and the Purchasers concerning the purchase of the Bonds.

“Rating Agency” means each nationally recognized securities rating agency then maintaining a rating on the Bonds and initially means Standard & Poor’s.

“Rebate Fund” means the 2020 Rebate Fund.

“Record Date” means the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding an interest payment date.

“Redemption Date” means the date fixed for the redemption prior to their respective maturities of any Bonds or other designated securities payable from Net Pledged Revenues in any notice of prior redemption or otherwise fixed and designated by the District.

“Reserve Fund” means the 2020 Reserve Fund.

“Reserve Fund Insurance Policy” means any insurance policy, surety bond, irrevocable letter of credit or similar instrument deposited in or credited to the Reserve Fund in lieu of or in partial substitution for moneys on deposit therein.

“Reserve Fund Requirement” has the meaning set forth in the Sale Certificate.

“Resolution” means this resolution of the District, which provides for the issuance and delivery of the Bonds.

“Sale Certificate” means the sale certificate of the District relating to the Bonds issued pursuant to the Supplemental Public Securities Act and described in Section 2.13 hereof.

“Special Record Date” means a special date fixed by the Paying Agent to determine the names and addresses of Owners of the Bonds for the purpose of paying interest on a special interest payment date for the payment of defaulted interest, all as further provided in Section 3.02 hereof.

“Standard & Poor’s” means Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., a corporation organized and existing under the laws of the State of New York, its successors and its assigns.

“State” means the State of Colorado.

“Subordinate Securities” means securities payable from the Net Pledged Revenues subordinate and junior to the lien thereon of the Bonds and any Parity Bonds.

“Supplemental Public Securities Act” means Part 2 of Article 57 of Title 11, C.R.S., as amended.

“Surety Provider” means the Insurer or any other entity issuing a Reserve Fund Insurance Policy with respect to the Bonds.

“System” the water system and sanitary sewer collection systems of the District, now owned or hereafter acquired, whether situated within or without the District boundaries, including all present or future improvements, extensions, enlargements, betterments, replacements or additions thereof or thereto.

“Tax Compliance Certificate” means the Federal Tax Exemption Certificate executed by the District in connection with the initial issuance and delivery of the Bonds.

“Term Bonds” means any of the Bonds that are payable on or before their specified maturing dates from sinking fund payments established for that purpose and calculated to retire such Bonds on or before their specified maturity dates.

“Trust Bank” means a Commercial Bank which is authorized to exercise and is exercising trust powers located within or without the State, and also means any branch of the Federal Reserve Bank.

“2006 Loan” means the governmental agency bond issued to CWRPDA to evidence the loan secured by the 2006 Loan Agreement and payable from Net Pledged Revenues on parity with the Bonds.

“2006 Loan Agreement” means the Loan Agreement between the District and CWRPDA dated as of November 1, 2006, pursuant to which the 2006 Loan was issued.

“2012 Bonds” means those securities issued by the District and designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2012.”

“2012 Loan” means the governmental agency bond issued to CWRPDA to evidence the loan secured by the 2012 Loan Agreement and payable from Net Pledged Revenues on parity with the Bonds.

“2012 Loan Agreement” means the Loan Agreement between the District and CWRPDA dated as of its date, pursuant to which the Loan was issued.

“2013 Bonds” means those securities issued by the District and designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2013.”

“2020 Acquisition Fund” means the special fund designated as the Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2020, Acquisition Fund created pursuant to Section 5.01 hereof.

“2020 Bond Fund” means the special fund designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2020, Bond Fund” created pursuant to Section 6.05 hereof.

“2020 Rebate Fund” means the special fund designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2020, Rebate Fund” created pursuant to Section 6.09 hereof.

“2020 Reserve Fund” means the special fund designated as the “Cherokee Metropolitan District, El Paso County, Colorado, Water and Wastewater Enterprise Revenue Bonds, Series 2020, Reserve Fund” created pursuant to Section 6.06 hereof.

Section 1.02 Recitals.

A. Cherokee Metropolitan District, in the County of El Paso and State of Colorado (the “District”), is a quasi-municipal corporation and political subdivision of the State of Colorado (the “State”), duly organized and existing under the Constitution and laws of the State, in particular Title 32, Article 1, C.R.S. (the “Act”).

B. The members of the Board of Directors of the District (the “Board”) have been duly elected or appointed and qualified.

C. The District currently owns and operates the System for the benefit of the inhabitants of the District.

D. The Board has determined that the System constitutes an enterprise pursuant to Article X, Section 20 of the Colorado Constitution (“TABOR”) and Title 37, Article 45.1, C.R.S. (the “Water Enterprise Act”).

E. The Board proposes to extend, better, otherwise improve and equip its System (the “Project”).

F. The District is authorized by Article X, Section 20 of the Colorado Constitution, Section 32-1-1101(1)(d) of the Act, and the Water Enterprise Act and Part 4 of Article 35 of Title 31, C.R.S., to issue revenue bonds authorized by action of the Board without the approval of the electors of the District, such bonds to be issued in the manner provided in Part 4 of Article 35 of Title 31, C.R.S.

G. The District intends to issue the Bonds to defray the Cost of the Project.

H. Section 32-1-1101(1)(b), C.R.S., authorizes the District to establish fees and charges for services, programs, or facilities furnished by the District and to pledge such revenue for payment of obligations of the District.

I. The District has heretofore issued the governmental agency bonds evidencing each of the Loans, which are payable from and secured by a lien on the Net Pledged Revenues.

J. The District has heretofore issued the Prior Bonds, which are payable from and secured by a lien on the Net Pledged Revenues.

K. The District is not delinquent in the payment of any of the principal of or interest on the Loans or on the Prior Bonds.

L. The Board hereby determines that the interest of the District and the public interest and necessity require the Project.

M. The Board hereby determines that the Project serves a valid governmental purpose and is necessary, expedient and in the best interests of the District and its customers and constituents, and the residents and taxpayers of the District.

N. Except for the Loans and the Prior Bonds, the District has not pledged nor in any way hypothecated revenues derived and to be derived directly or indirectly from the operation of the System to the payment of any securities or for any other purpose (excluding securities which have heretofore been redeemed in full, as to all principal, premium, if any, and interest, or are otherwise not outstanding) and with the result that the Net Pledged Revenues may now be pledged lawfully and irrevocably for the payment of the Bonds on a parity with the Loans and the Prior Bonds, and they may be made payable from the Net Pledged Revenues.

O. The Board has further determined and hereby further declares that the District is authorized and the Bonds shall be issued pursuant to the provisions of Title 32, Article 1; Title 37, Article 45.1; Title 31, Article 35; and Title 11, Article 57, Part 2, C.R.S.

P. The District is authorized by Article X, Section 20 of the Colorado Constitution, Title 31, Article 35, Part 4, C.R.S., Title 32, Article 1, and Title 37, Article 45.1, C.R.S. to issue the bonds without an election.

Q. Pursuant to Article X, Section 20 of the Colorado Constitution and Article 45.1 of Title 37, C.R.S., the Bonds may be issued without voter approval since the System constitutes an enterprise within the meaning of Article X, Section 20 of the Colorado Constitution.

R. The District intends to negotiate a proposal with the Purchasers, concerning the purchase of the Bonds.

S. Pursuant to Section 11-57-203, C.R.S., as amended, the District desires to delegate to any of the members of the Board and the General Manager the independent power to accept the proposal to purchase the Bonds and to determine the rates of interest on the Bonds, the redemption provisions of the Bonds, the price at which the Bonds will be sold, the aggregate principal amount of the Bonds to be issued and the amount of principal maturing, or subject to mandatory redemption, in any particular year.

T. The Board has determined and does hereby declare:

(1) In order to meet the present and future needs of the District, it is necessary to extend, better, and otherwise improve and equip the System;

(2) The Bonds shall be issued for the Project;

(3) Net Pledged Revenues shall be pledged to the payment of the Bonds;
and

(4) All action preliminary to the authorization of the issuance of the Bonds has been taken.

U. There are on file with the District the forms of the following documents: (i) the form of the Bond Purchase Agreement; (ii) the form of the Paying Agent and Registrar Agreement; (iii) the form of Preliminary Official Statement; and (iv) the form of the Continuing Disclosure Certificate.

V. It is necessary to provide for the form of the Bonds, the Bond details, the payment of the Bonds, and other provisions relating to the authorization, issuance, and sale of the Bonds.

Section 1.03 District-Held Securities. Any securities payable from any Net Pledged Revenues held by the District shall not be deemed to be Outstanding for the purpose of redemption nor Outstanding for the purpose of consents hereunder or for any other purpose herein.

Section 1.04 Parties Interested Herein. Nothing herein expressed or implied confers any right, remedy or claim upon any Person, other than the District, the Board, the Paying Agent, the Insurer, if any, the Surety Provider the Owners of the Bonds and the Owners of any Parity Bonds or other securities payable from the Net Pledged Revenues when reference is expressly made thereto. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the District shall be for the sole and exclusive benefit of the District, the Board, the Paying Agent, the Insurer, the Surety Provider, the Owners of the Bonds and the Owners of any such other securities in the event of such a reference.

Section 1.05 Ratification; Approval of Documents. All action heretofore taken (not inconsistent with the provisions of this Resolution) by the Board, the officers of the District and otherwise taken by the District directed toward the Project and the sale and delivery of the Bonds for such purposes, be, and the same hereby is, ratified, approved and confirmed.

Section 1.06 Repealer. All bylaws, orders, resolutions or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any such bylaw, order or resolution, or part thereof, heretofore repealed. All rules of the Board, if any, which might prevent the final passage and adoption of this Resolution as an emergency measure at this meeting of the Board be, and the same hereby are, suspended.

Section 1.07 Severability. If any section, subsection, paragraph, clause or other provision of this Resolution for any reason is invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Resolution.

Section 1.08 Resolution Irrepealable. After any of the Bonds are issued, this Resolution shall constitute an irrevocable contract between the District and the Owner or Owners of the Bonds and this Resolution shall be and shall remain irrepealable until the Bonds, as to all Bond Requirements, shall be fully paid, canceled, and discharged, except as herein otherwise provided.

Section 1.09 Conclusive Recitals. Pursuant to Section 11-57-210 of the Supplemental Public Securities Act, the Bonds shall contain a recital that they are issued pursuant to the Supplemental Public Securities Act. Such recital shall be conclusive evidence of the validity and the regularity of the issuance of the Bonds after their delivery for value. In addition, pursuant to Section 31-35-413, C.R.S., the Bonds shall contain a recital that they are issued pursuant to

Title 31, Article 35, Part 4, C.R.S. Such recital shall conclusively impart full compliance with all the provisions of such statute, and Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

Section 1.10 Limitation of Actions. Pursuant to Section 11-57-212 of the Supplemental Public Securities Act, no legal or equitable action brought with respect to any legislative acts or proceedings of the District in connection with the authorization or issuance of the Bonds, including but not limited to the adoption of this Resolution, shall be commenced more than thirty days after the authorization of the Bonds.

ARTICLE II.

DETERMINATION OF THE DISTRICT'S AUTHORITY AND OBLIGATIONS; APPROVAL OF RELATED DOCUMENTS; AND ELECTION TO APPLY SUPPLEMENTAL PUBLIC SECURITIES ACT TO THE BONDS

Section 2.01 Authorization. In accordance with the Constitution of the State of Colorado; the Supplemental Public Securities Act; Title 32, Article 1, C.R.S.; Title 31, Article 35, Part 4, C.R.S.; Title 37, Article 45.1, C.R.S., the provisions of this Resolution; and all other laws of the State thereunto enabling, the District hereby authorizes to be issued the Bonds in the principal amounts approved by the any member of the Board or the General Manager in the Sale Certificate, subject to the parameters and restrictions contained in this Resolution, for the purpose of: (i) paying the Cost of the Project; and (ii) paying issuance and other costs in connection with the Bonds; and the District pledges irrevocably, but not necessarily exclusively, the Net Pledged Revenues to the payment of the Bond Requirements of the Bonds.

Section 2.02 Bonds Equally Secured. The covenants and agreements herein set forth to be performed on behalf of the District shall be for the equal benefit, protection and security of the Owners of any and all of the Outstanding Bonds and any Outstanding Parity Bonds heretofore or hereafter authorized and issued, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of such securities over any other thereof, except as otherwise expressly provided in or pursuant to this Resolution.

Section 2.03 Special Obligations. All of the Bond Requirements of the Bonds and the Policy Costs shall be payable and collectible solely out of the Net Pledged Revenues, which revenues are so pledged; the Owner or Owners of the Bonds and the Surety Provider may not look to any general or other fund for the payment of such Bond Requirements and Policy Costs, except the herein designated special funds pledged therefor; the Bonds and the Policy Costs shall not constitute an indebtedness or a debt within the meaning of any constitutional, or statutory provision or limitation; and the Bonds and the Policy Costs shall not be considered or held to be general obligations of the District but shall constitute its special obligations. No statutory or constitutional provision enacted after the issuance of the Bonds shall in any manner be construed as limiting or impairing the obligation of the District to comply with the provisions of this Resolution or to pay the Bond Requirements of the Bonds and the Policy Costs as herein provided.

Section 2.04 Character of Agreement. None of the covenants, agreements, representations and warranties contained herein or in the Bonds shall ever impose or shall be

construed as imposing any liability, obligation or charge against the District (except the special funds pledged therefor), or against its general credit, or as payable out of its general fund or out of any funds derived from taxation or out of any other revenue source (other than those pledged therefor).

Section 2.05 No Pledge of Property. The payment of the Bonds and the Policy Costs is not secured by an encumbrance, mortgage or other pledge of property of the District, except for the Net Pledged Revenues and other moneys pledged for the payment of the Bond Requirements of the Bonds. No property of the District, subject to such exception, shall be liable to be forfeited or taken in payment of the Bonds or the Policy Costs.

Section 2.06 No Recourse Against Officers and Agents. No recourse shall be had for the payment of the Bond Requirements of the Bonds or the Policy Costs or for any claim based thereon or otherwise upon this Resolution or any other resolution pertaining hereto, against any individual member of the Board or any officer, employee or other agent of the District, past, present or future, either directly or indirectly through the Board, or the District, or otherwise, whether by virtue of any penalty or otherwise, all such liability, if any, being by the acceptance of the Bonds and as part of the consideration of their issuance specially waived and released.

Section 2.07 Authorization of the Project. The Board, on behalf of the District, does hereby determine to undertake the Project, which is hereby authorized, and the proceeds of the Bonds shall be used therefor.

Section 2.08 Enterprise Status. The Board, on behalf of the District, hereby confirms its determination that the System shall be an "enterprise" for the purposes of Article X, Section 20 of the State Constitution and Title 37 Article 45.1, C.R.S. In particular, the System shall be owned by the District and shall have the power to issue revenue bonds in the manner and payable from the sources set forth in this Resolution.

Section 2.09 Sale of Bonds. The Bonds shall be sold by negotiated sale to the Purchasers. Pursuant to the Supplemental Public Securities Act, the Board hereby delegates to any member of the Board or the General Manager the independent authority to execute the proposal submitted by the Purchasers and to execute the Sale Certificate confirming the bond details set forth in Section 2.13.

Section 2.10 Official Statement. The preparation and use of the Preliminary Official Statement and of the final Official Statement for the Bonds are hereby authorized. The General Manager is hereby authorized to approve, on behalf of the District, the Official Statement for the Bonds. The execution of the Official Statement by the President or the General Manager shall be conclusively deemed to evidence the approval of the form and contents thereof by the District.

Section 2.11 Paying Agent Agreement. The Board hereby determines to approve the Paying Agent Agreement. If the Paying Agent appointed thereunder shall resign, or if the District shall determine to remove the Paying Agent, then the District may appoint a successor Paying Agent, upon notice mailed to each owner of any Bond at his address last shown on the registration records maintained by the Paying Agent. No resignation or dismissal of the Paying Agent may

take effect until a successor has been appointed and has accepted the duties of the Paying Agent. Every such successor Paying Agent shall be a Commercial Bank.

Section 2.12 Other Related Documents. The forms, terms and provisions of, and the performance by the District of its obligations under the Preliminary Official Statement, the Paying Agent Agreement, and the Continuing Disclosure Certificate are hereby approved, and the President and the Secretary are hereby authorized and directed to execute each of such documents on behalf of and in the name of the District, and to deliver each of such documents, in substantially the form on file with the Secretary, with such changes as are not inconsistent herewith. Any member of the Board or the General Manager are hereby independently authorized to execute and deliver any Insurance Agreement as may be required by an Insurer relating to the issuance of any Insurance Policy or a Surety Provider relating to a Reserve Fund Insurance Policy. The execution of any instrument by the appropriate officers of the District herein authorized shall be conclusive evidence of the approval by the District of such instrument in accordance with the terms hereof.

Pursuant to Sections 205(2) and 207(2) of the Supplemental Public Securities Act, any member of the Board or the General Manager is hereby independently authorized to execute and deliver any Insurance Agreement as may be required by an Insurer relating to the issuance of any Insurance Policy or a Surety Provider relating to a Reserve Fund Insurance Policy.

Section 2.13 Election to Apply Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-204 of the Supplemental Public Securities Act, a public entity, including the District, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Public Securities Act. The Board hereby elects to apply all of the provisions of the Supplemental Public Securities Act to the Bonds. Pursuant to Section 11-57-205 of the Supplemental Public Securities Act, the Board hereby delegates to any member of the Board or the General Manager the independent authority to make the following determinations with respect to the Bonds, subject to the parameters and restrictions contained in this Resolution, without any requirement that the Board approve such determinations:

(1) Interest Rate. The net effective rate of interest to be borne by the Bonds shall not exceed 4.0% per annum.

(2) Section 31-35-413, C.R.S., Determination. Pursuant to Section 31-35-413, C.R.S., the Bonds shall contain a recital that they are issued pursuant to Title 31, Article 35, Part 4, C.R.S. Such recital shall conclusively impart full compliance with all the provisions of such statute, and Bonds issued containing such recital shall be incontestable for any cause whatsoever after their delivery for value.

(3) Redemption Provisions. The Bonds shall be subject to redemption prior to maturity at the option of the District, at such time or times as permitted by State law and as set forth in the Sale Certificate, at a redemption price not to exceed 103%.

(4) Purchase Price. The price at which the Bonds will be sold to the Purchasers shall not be less than 97% of the aggregate principal amount of the Bonds.

(5) Principal Amount of the Bonds. The aggregate principal amount of the Bonds shall not exceed \$45,000,000.

(6) Maturity Schedule of the Bonds. The maximum annual principal and interest coming due on the Bonds shall not exceed \$3,500,000 annually, and the total repayment cost shall not exceed \$75,000,000.

(7) Term of the Bonds. The Bonds shall not mature later than December 31, 2051.

(8) Bond Insurer. Whether it is in the best interest of the District to obtain an Insurance Policy and/or a Reserve Fund Insurance Policy, and if so determined, to execute any commitment or any other agreement relating to same.

Such determinations shall be evidenced by the Sale Certificate signed by any member of the Board or the General Manager dated and delivered on or prior to the Closing Date, which shall not be more than one year from the date of adoption of this Resolution. If the District shall determine to not obtain any Insurance Policy to secure the payment of principal of and interest on the Bonds, or not to obtain a Reserve Fund Insurance Policy, any references to the Insurer, an Insurance Policy, a Reserve Fund Insurance Policy, the Surety Provider, Policy Costs, the Insurance Agreement, or other provisions relating to bond insurance shall be of no force or effect.

ARTICLE III.

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF BONDS

Section 3.01 Bond Details.

A. Basic Provisions. The Bonds shall be issued in fully registered form (i.e. registered as to payment of both principal and interest), in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be lettered "R" and shall be numbered separately from 1 upward. The Bonds shall be dated as of the date of their delivery. The Bonds shall mature on August 1, in the years and amounts and subject to prior redemption as set forth herein and in the Sale Certificate. The Bonds shall bear interest from the most recent interest payment date to which interest has been paid, or if no interest has been paid, from their date until their respective maturities (or prior redemption) at the rates set forth in the Sale Certificate. No interest shall accrue on any Bonds owned by or on behalf of the District. Interest on the Bonds shall be calculated on the basis of a 360-day year of twelve 30-day months, payable semiannually on each February 1 and August 1, commencing on the date provided in the Sale Certificate.

B. Payment of Bonds. The principal of each Bond shall be payable at the principal corporate trust office of the Paying Agent, or at such other office as the Paying Agent directs in writing to the Owners of the Bonds, or at the principal office of its successor, upon presentation and surrender of the Bond. Payment of interest on any Bond shall be made to the Owner thereof by the Paying Agent on or before each interest payment date, (or, if such interest payment date is not a Business Day, on or before the next succeeding Business Day), to such Owner at his or her address as it appears on the registration records kept by the Paying Agent on the Record Date; but any such interest not so timely paid or duly provided for shall cease to be payable to the person who is the Owner thereof at the close of business on the Record Date and

shall be payable to the person who is the Owner thereof at the close of business on a Special Record Date for the payment of any such defaulted interest. Such Special Record Date and the date fixed for payment of such defaulted interest shall be fixed by the Paying Agent whenever moneys become available for payment of the defaulted interest, and notice of the Special Record Date shall be given to the Owners not less than ten days prior to the Special Record Date by first-class mail to each such Owner as shown on the Paying Agent's registration books on a date selected by the Paying Agent, stating the date of the Special Record Date and the date fixed for the payment of such defaulted interest. The Paying Agent may make payments of interest on any Bond by such alternative means as may be mutually agreed to between the Owner of such Bond and the Paying Agent. If any Bond is not paid upon its presentation and surrender at or after its maturity or prior redemption, interest shall continue at its stated rate per annum until the principal thereof is paid in full. All such payments shall be made in lawful money of the United States of America.

Section 3.02 Execution of Bonds. The Bonds shall be executed in the name of the District by the manual or facsimile signature of the President, shall be sealed with the corporate seal of the District or a facsimile thereof thereunto affixed, imprinted, engraved or otherwise reproduced and shall be attested by the manual or facsimile signature of the Secretary. Any Bond may be signed (manually or by facsimile), sealed or attested on behalf of the District by any person who, at the date of such act, shall hold the proper office, notwithstanding that at the date of authentication, issuance or delivery, such person may have ceased to hold such office. The President and the Secretary may adopt as and for his or her own facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears on any of the Bonds. Before the execution of any Bond, the President and the Secretary shall each file with the Colorado Secretary of State his or her manual signature certified by him or her under oath.

Section 3.03 Authentication Certificate. The authentication certificate upon the Bonds shall be substantially in the form and tenor provided in the form of the Bonds attached to this Resolution as **Exhibit A**. No Bond shall be secured hereby or entitled to the benefit hereof, nor shall any Bond be valid or obligatory for any purpose, unless the certificate of authentication, substantially in such form, has been duly executed by the Paying Agent and such certificate of the Paying Agent upon any Bond shall be conclusive evidence that such Bond has been authenticated and delivered hereunder. The certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds.

Section 3.04 Registration and Payment. The Paying Agent shall keep or cause to be kept sufficient records for the registration and transfer of the Bonds, which shall at all times be open to inspection by the District. Upon presentation for such purpose, the Paying Agent shall, under such reasonable regulations as it may prescribe, register or transfer or cause to be registered or transferred, on said records, Bonds as herein provided. Except as provided in Section 3.06 hereof, the Person in whose name any Bond shall be registered on the registration records kept by the Paying Agent shall be deemed and regarded as the absolute owner thereof for the purpose of making payment of the Bond Requirements thereof and for all other purposes; and payment of or on account of the Bond Requirements of any Bond shall be made only to the Owner thereof or his or her legal representative, but such registration may be changed upon transfer of such Bond in the

manner and subject to the conditions and limitations provided herein. All such payments shall be valid and effectual to discharge the liability upon such Bond to the extent of the sum or sums so paid. The foregoing provisions of this Section are subject to the provisions of Section 3.07 hereof.

Section 3.05 Transfers and Exchange. Any Bond may be transferred upon the records required to be kept pursuant to the provisions of Section 3.04 hereof by the Person in whose name it is registered, in person or by his or her duly authorized attorney, upon surrender of such Bond for cancellation, accompanied by delivery of a written instrument of transfer in a form approved by the Paying Agent, duly executed. Whenever any Bond or Bonds shall be surrendered for transfer, the Paying Agent shall authenticate and deliver a new Bond or Bonds for a like aggregate principal amount and of the same maturity and interest rate and of any authorized denominations. The Bonds may be exchanged by the Paying Agent for a like aggregate principal amount of Bonds of the same maturity and interest rate and of other authorized denominations. The execution by the District of any Bond of any denomination shall constitute full and due authorization of such denomination and the Paying Agent shall thereby be authorized to authenticate and deliver such Bond.

The Paying Agent shall not be required to transfer or exchange (a) any Bond subject to redemption during a period beginning at the opening of business 15 days before the day of the mailing of a notice of redemption of Bonds and ending at the close of business on the day such notice is mailed, or (b) any Bond so selected for redemption in whole or in part after the mailing of notice calling such Bond or any portion thereof for prior redemption except the unredeemed portion of Bonds being redeemed in part.

The Paying Agent shall require the payment by any Owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer, and may charge a sum sufficient to pay the cost of preparing each new Bond upon each exchange or transfer and any other expenses of the District or the Paying Agent incurred in connection therewith.

The foregoing provisions of this Section are subject to the provisions of Section 3.07 hereof.

Section 3.06 Bond Replacement. Upon receipt by the District and the Paying Agent of evidence satisfactory to them of the ownership of and the loss, theft, destruction or mutilation of any Bond and, in the case of a lost, stolen or destroyed Bond, of indemnity satisfactory to them, and in the case of a mutilated Bond upon surrender and cancellation of the Bond, (a) the District shall execute and the Paying Agent shall authenticate and deliver a new Bond of the same date, interest rate and denomination in lieu of such lost, stolen, destroyed or mutilated Bond, or (b) if such lost, stolen, destroyed or mutilated Bond shall have matured or have been called for redemption, in lieu of executing and delivering a new Bond as aforesaid, the District may pay such Bond. Any such new Bond shall bear a number not previously assigned. The applicant for any such new Bond may be required to pay all expenses and charges of the District and of the Paying Agent in connection with the issuance of such Bond. All Bonds shall be held and owned upon the express condition that, to the extent permitted by law, the foregoing conditions are exclusive with respect to the replacement and payment of mutilated, destroyed, lost or stolen Bonds, negotiable instruments or other securities.

Section 3.07 Custodial Deposit.

A. Depository. Notwithstanding any contrary provision of this Resolution, the Bonds initially shall be evidenced by one Bond of the same maturity and interest rate in denominations equal to the aggregate principal amount of the Bonds of the same maturity and interest rate. Such initially delivered Bonds shall be registered in the name of "Cede & Co." as nominee for The Depository Trust Company, the securities depository for the Bonds. The Bonds may not thereafter be transferred or exchanged except:

(1) to any successor of The Depository Trust Company or its nominee, which successor must be both a "clearing corporation" as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered "clearing agency" under Section 17A of the Securities Exchange Act of 1934, as amended; or

(2) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) or this clause (2) of this paragraph A, or a determination by the Board that The Depository Trust Company or such successor or a new depository institution is no longer able to carry out its functions, and the designation by the Board of another depository institution acceptable to the Board and to the depository then holding the Bonds, which new depository must be both a "clearing corporation" as defined in Section 4-8-102(a)(5), C.R.S. and a qualified and registered "clearing agency" under Section 17A of the Securities Exchange Act of 1934, as amended, to carry out the functions of The Depository Trust Company or such successor new depository institution; or

(3) upon the resignation of The Depository Trust Company or a successor or new depository institution under clause (1) above or designation of a new depository institution pursuant to clause (2) above, or a determination of the Board that The Depository Trust Company or such successor or depository institution is no longer able to carry out its functions, and the failure by the Board, after reasonable investigation, to locate another depository institution under clause (2) to carry out such depository institution functions.

B. Successor. In the case of a transfer to a successor of The Depository Trust Company or its nominee as referred to in clause (1) or (2) of paragraph A hereof, upon receipt of the outstanding Bonds by the Paying Agent together with written instructions for transfer satisfactory to the Paying Agent, a new Bond for each maturity and interest rate of the Bonds then outstanding shall be issued to such successor or new depository, as the case may be, or its nominee, as is specified in such written transfer instructions. In the case of a resignation or determination under clause (3) of paragraph A hereof and the failure after reasonable investigation to locate another qualified depository institution for the Bonds as provided in clause (3) of paragraph A hereof, and upon receipt of the outstanding Bonds by the Paying Agent, together with written instructions for transfer satisfactory to the Paying Agent, new Bonds shall be issued in authorized denominations as provided in and subject to the limitations of Section 3.01, Section 3.04, and Section 3.05 hereof, registered in the names of such Persons, as are requested in such written

transfer instructions; however, the Paying Agent shall not be required to deliver such new Bonds within a period of less than 60 days from the date of receipt of such written transfer instructions.

C. Absolute Owner. The Board and the Paying Agent shall be entitled to treat the Owner of any Bond as the absolute owner thereof for all purposes hereof and any applicable laws, notwithstanding any notice to the contrary received by any or all of them and the Board and the Paying Agent shall have no responsibility for transmitting payments or notices to the beneficial owners of the Bonds held by The Depository Trust Company or any successor or new depository named pursuant to paragraph A hereof. The Paying Agent shall have no liability or responsibility with respect to accuracy of records of DTC, consents given or action taken by DTC or selection of Bonds for redemption.

D. Payment. The Board and the Paying Agent shall endeavor to cooperate with The Depository Trust Company or any successor or new depository named pursuant to clause (1) or (2) of paragraph A hereof in effectuating payment of the principal amount of the Bonds upon maturity or prior redemption by arranging for payment in such a manner that funds representing such payments are available to the depository on the date they are due.

E. Redemption. Upon any partial redemption of any maturity and interest rate of the Bonds, Cede & Co. (or its successor) in its discretion may request the District to issue and authenticate a new Bond or shall make an appropriate notation on the Bond indicating the date and amount of prepayment, except in the case of final maturity, in which case the Bond must be presented to the Paying Agent prior to payment. The records of the Paying Agent shall govern in the case of any dispute as to the amount of any partial prepayment made to Cede & Co. (or its successor).

Section 3.08 Bond Cancellation. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Paying Agent for transfer, exchange or replacement as provided herein, such Bond shall be promptly canceled and destroyed by the Paying Agent.

Section 3.09 Bond Form. Subject to the provisions of this Resolution, each Bond shall be in substantially the form attached hereto as Exhibit A, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Resolution, be consistent with this Resolution or be necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto.

ARTICLE IV.

REDEMPTION

Section 4.01 Optional Redemption. The Bonds will be subject to redemption at the option of the District from any legally available funds as set forth in the Sale Certificate.

Notwithstanding the foregoing, the Bonds may not be redeemed pursuant to this Section unless all Policy Costs, if any, due and owing at the time to the Surety Provider have been paid.

Section 4.02 Mandatory Sinking Fund Redemption. The Term Bonds, if any, shall be subject to mandatory sinking fund redemption at the times, in the amounts and at the prices provided in the Sale Certificate.

On or before the thirtieth day prior to each such sinking fund payment date, the Paying Agent shall proceed to call the Term Bonds, if any, as provided in the Sale Certificate (or any Term Bond or Term Bonds issued to replace such Term Bonds) for redemption from the sinking fund on the next August 1 and give notice of such call without further instruction or notice from the District.

At its option, to be exercised on or before the sixtieth day next preceding each such sinking fund Redemption Date, the District may (a) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory sinking fund redemption on such date in an aggregate principal amount desired or (b) receive a credit in respect of its sinking fund redemption obligation for any Term Bonds of the maturity and interest rate subject to mandatory sinking fund redemption on such date, which prior to said date have been redeemed (otherwise than through the operation of the sinking fund) and canceled by the Paying Agent and not theretofore applied as a credit against any sinking fund redemption obligation. Each Term Bond so delivered or previously redeemed will be credited by the Paying Agent at the principal amount thereof against the obligation of the District on such sinking fund date and such sinking fund obligation will be accordingly reduced. The District will on or before the sixtieth day next preceding each sinking fund Redemption Date furnish the Paying Agent with its certificate indicating whether or not and to what extent the provisions of (a) and (b) of the preceding sentence are to be availed with respect to such sinking fund payment. Failure of the District to deliver such certificate shall not affect the Paying Agent's duty to give notice of sinking fund redemption as provided in this paragraph.

Section 4.03 Partial Redemption. In the case of Bonds of a denomination larger than \$5,000, a portion of such Bond (\$5,000 or any integral multiple thereof) may be redeemed, in which case the Paying Agent shall, without charge to the owner of such Bond, authenticate and issue a replacement Bond or Bonds for the unredeemed portion thereof.

Section 4.04 Notice of Prior Redemption. Notice of optional or mandatory redemption shall be given by the Paying Agent in the name of the District by sending a copy of such notice by first-class, postage prepaid mail, electronic means, or such other means as may be required by the depository, not more than sixty nor less than thirty days prior to the Redemption Date to each Owner at his address as it last appears on the registration books kept by the Paying Agent; but neither failure to give such notice nor any defect therein shall affect the redemption of any Bond. Such notice shall identify the Bonds to be so redeemed (if less than all are to be redeemed) and the Redemption Date, and shall further state that on such Redemption Date there will become and be due and payable upon each Bond so to be redeemed, at the principal office of the Paying Agent, the principal amount thereof, accrued interest to the Redemption Date, and the stipulated premium, if any, and that from and after such date interest will cease to accrue. Notice having been given in the manner hereinabove provided, the Bond or Bonds so called for redemption shall become due and payable on the Redemption Date so designated; and upon presentation thereof at the principal office of the Paying Agent, the Paying Agent will pay the Bond or Bonds so called for redemption. No further interest shall accrue on the principal of any such Bond called for redemption from and

after the Redemption Date, provided sufficient funds are deposited with the Paying Agent and available on the Redemption Date.

Notwithstanding the provisions of this Section, any notice of redemption shall either (a) contain a statement that the redemption is conditioned upon the receipt by the Paying Agent on or before the Redemption Date of funds sufficient to pay the redemption price of the Bonds so called for redemption, and that if such funds are not available, such redemption shall be canceled by written notice to the Owners of the Bonds called for redemption in the same manner as the original redemption notice was mailed, or (b) be given only if funds sufficient to pay the redemption price of the Bonds so called for redemption are on deposit with the Paying Agent in the applicable fund or account.

Section 4.05 Bonds Owned by the District. Bonds owned by or on behalf of the District shall not be subject to redemption. At any time the District may surrender any Bonds owned by or on behalf of the District to the Paying Agent, which shall promptly cancel such Bonds.

Section 4.06 No Partial Redemption After Default. Anything in this Resolution to the contrary notwithstanding, if there shall have occurred and is continuing an Event of Default hereunder of which an officer of the Paying Agent has actual knowledge, there shall be no redemption of less than all of the Bonds at the time Outstanding (other than pursuant to Section 4.02 hereof).

ARTICLE V.

USE OF BOND PROCEEDS AND OTHER MONEYS

Section 5.01 Disposition of Bond Proceeds. The proceeds of the Bonds (net of underwriting discount), upon the receipt thereof, shall be accounted for in the following manner and priority:

A. **Reserve Fund.** An amount equal to the Reserve Fund Requirement, if specified in the Sale Certificate for the Bonds, shall be credited to the Reserve Fund. Alternatively, if the District should determine in the Sale Certificate to obtain a Reserve Fund Insurance Policy, the District shall pay from the net proceeds of the Bonds the premium payable to the Insurer and Surety Provider.

B. **Acquisition Fund.** The remaining proceeds derived from the sale of the Bonds shall be credited to the Acquisition Fund and shall be used for the Cost of the Project, including costs of issuance of the Bonds.

Section 5.02 Payment of Expenses. Moneys deposited in the Acquisition Fund pursuant to Section 5.01 hereof may be used and paid out by the District to defray the administrative costs of the Project, including, without limitation, amounts to be paid to the Paying Agent, legal fees, accounting fees, printing costs and rating fees. The District may defray any such administrative costs from time to time as Operation and Maintenance Expenses to the extent the moneys deposited in the Acquisition Fund pursuant to Section 5.01 hereof are insufficient therefor.

Section 5.03 Completion of Project. When the Project is completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses and all administrative costs of the Project referred to in Section 5.02 hereof, are paid, or for which full provision is made, the General Manager shall cause all surplus moneys remaining in the Acquisition Fund, if any, except for any moneys designated in the certificates to be retained to pay any unpaid accrued costs or contingent obligations, to be transferred to (a) the Rebate Fund so as to enable the District to comply with Section 9.30 hereof, (b) the Reserve Fund to such extent as shall not cause the amount in the Reserve Fund to exceed the Reserve Fund Requirement and (c) the Bond Fund to the extent of any remaining balance of such moneys to be applied against the next principal payment or payments coming due on the Bonds. Nothing herein prevents the transfer from the Acquisition Fund to the Bond Fund, at any time prior to the termination of the Acquisition Fund, of any moneys which the General Manager by certificate determines will not be necessary for the Project and will not be designated to be transferred to the Rebate Fund.

Section 5.04 Lien on Bond Proceeds. Until the proceeds of the Bonds deposited in the Acquisition Fund are applied as herein provided, such Bond proceeds are subject to a lien thereon and pledge thereof for the benefit of the Owners of the Outstanding Bonds as provided in Section 6.01 hereof.

Section 5.05 Purchase Not Responsible. The validity of the Bonds is not dependent upon nor affected by the validity or regularity of any proceedings relating to the application of the Bond proceeds. The Purchasers and any subsequent Owners of any of the Bonds are not responsible for the application or disposal by the District or by any of its officers, agents and employees of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

ARTICLE VI.

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Section 6.01 Pledge Securing Bonds. Subject only to the right of the District to cause amounts to be withdrawn and paid on account of Operation and Maintenance Expenses of the System, the Gross Pledged Revenues and, subject to the right of the District to cause amounts to be withdrawn to pay the Cost of the Project as provided herein and other than moneys and securities held in the Rebate Fund to the extent such amounts are required to be paid to the United States, all moneys and securities paid or to be paid to or held or to be held in any account under this Article or under Section 5.01 hereof are hereby pledged to secure the payment of the Bond Requirements of the Outstanding Bonds and to secure the obligations of the District to pay Policy Costs. The pledge of the Net Pledged Revenues to secure the payment of the Bond Requirements of the Outstanding Bonds and the Parity Bonds is on a parity with the pledge of the Net Pledged Revenues for, and lien thereon of the Parity Bonds heretofore issued and any other Outstanding Parity Bonds hereafter issued in compliance with the provisions of Article VIII hereof. The pledge of the Net Pledged Revenues to secure the payment of the Policy Costs is subordinate only to the pledge to pay the Bond Requirements with respect to the Bonds and any Parity Bonds. This pledge shall be valid and binding from and after the date of the delivery of the Bonds, and the moneys as received by the District and hereby pledged shall immediately be subject to the lien of this pledge

without any physical delivery thereof, any filing, or further act. The lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the District except any Outstanding Parity Bonds heretofore or hereafter authorized and any Policy Costs as provided herein. The lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the District (except as herein otherwise provided) irrespective of whether such parties have notice thereof.

Section 6.02 Income Fund Deposits. So long as any of the Bonds and any Parity Bonds shall be Outstanding, as to any Bond Requirements related to the Bonds and the Parity Bonds, the entire Gross Pledged Revenues, upon their receipt from time to time by the District, shall be set aside and credited immediately to the Income Fund.

Section 6.03 Administration of Income Fund. So long as any of the Bonds and any Parity Bonds shall be Outstanding, as to any Bond Requirements and Policy Costs related to the Bonds, the following payments shall be made from the Income Fund, as provided in Section 6.04 through Section 6.10 hereof.

Section 6.04 Operating and Maintenance Expenses. First, as a first charge on the Income Fund, from time to time there shall continue to be held therein moneys sufficient to pay Operation and Maintenance Expenses, as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining in the Income Fund at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be used for other purposes of the Income Fund as herein provided.

Section 6.05 Bond Fund Payments. Second, from any remaining Net Pledged Revenues, there shall be credited, concurrently with amounts required to meet the Bond Requirements with respect to any Outstanding Parity Bonds, to the Bond Fund, the following amounts:

A. **Interest Payments.** Monthly to the Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month six months next prior to the first interest payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the interest due and payable on the Outstanding Bonds on the next succeeding interest payment date.

B. **Principal Payments.** Monthly to the Bond Fund, commencing on the first day of the month immediately succeeding the delivery of any of the Bonds, or commencing on the first day of the month one year next prior to the first principal payment date of any of the Bonds, whichever commencement date is later, an amount in equal monthly installments necessary, together with any moneys therein and available therefor, to pay the principal and redemption premium, if any, due and payable on the Outstanding Bonds on the next succeeding principal payment date.

If prior to any interest payment date or principal payment date, there has been accumulated in the Bond Fund the entire amount necessary to pay the next maturing installment of interest or

principal, or both, the payment required in paragraph A or B (whichever is applicable) of this Section 6.05 may be appropriately reduced; but the required annual amounts again shall be so credited to such account commencing on such interest payment date or principal payment date.

The moneys credited to the Bond Fund shall be used to pay the Bond Requirements of the Bonds then Outstanding, as such Bond Requirements become due, except as provided in Section 6.07 and Section 13.01 hereof. No interest or principal shall be paid on any Bonds owned by or on behalf of the District.

Section 6.06 Reserve Fund Payments. Upon delivery of the Bonds, either proceeds of the Bonds, cash, or a Reserve Fund Insurance Policy in the amount of the Reserve Fund Requirement being provided by the Surety Provider, if required and in amounts specified in the Sale Certificate, shall be deposited into the Reserve Fund in satisfaction of the Reserve Fund Requirement. Any Reserve Fund Insurance Policy shall be held by the Paying Agent. Any Reserve Fund Insurance Policy deposited to the credit of the Reserve Fund shall be valued at the amount available to be drawn or otherwise paid pursuant to such Reserve Fund Insurance Policy at the time of calculation. The Paying Agent shall maintain adequate records as to the amount available to be drawn at any time under a Reserve Fund Insurance Policy and as to the amounts, of which it has knowledge, of Policy Costs paid and owing to the Surety Provider. Such records shall be open to inspection and verification by the Surety Provider during business hours of the Paying Agent.

Thereafter, third, except as provided in Section 6.07 and Section 6.08 hereof, and concurrently with any payments required to be made pursuant to any Parity Bond Resolutions with respect to any reserve funds which may be, but are not required to be, established thereby and concurrently with any repayment or similar obligations payable to any surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds, from any moneys remaining in the Income Fund there shall be credited to the Reserve Fund monthly, commencing on the first day of the month next succeeding each date on which the moneys accounted for in the Reserve Fund for any reason are less than the Reserve Fund Requirement, such amounts in substantially equal monthly payments on the first day of each month to reaccumulate the Reserve Fund Requirement by not more than 12 such monthly payments. If a Reserve Fund Insurance Policy is on deposit in the Reserve Fund to fund all or a part of the Reserve Fund Requirement, the amounts payable into the Reserve Fund pursuant to the immediately preceding sentence shall be paid by the District first to the Surety Provider to reimburse it for Policy Costs due and owing and second to replenish cash in the Reserve Fund. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph, available Net Pledged Revenues shall be credited or paid to the Reserve Fund and to Reserve Fund which may be established by any Parity Bond Resolutions (or to the Surety Provider or any other surety provider issuing any reserve fund insurance policy with respect to any Parity Bonds) pro rata, based upon the aggregate principal amount of the Bonds and any such Parity Bonds then Outstanding; provided, however, that compliance with the provisions of this sentence shall not cure any Event of Default caused by non-compliance with the first sentence of this paragraph. If there are insufficient Net Pledged Revenues to comply with the requirements of the first sentence of this paragraph and more than one Reserve Fund Insurance Policy is on deposit in the Reserve Fund, available Net Pledged Revenues credited to or paid to the Reserve Fund shall be applied to reimburse the Surety Provider and any other surety provider providing a Reserve Fund Insurance Policy pro rata, based upon the original

amount available to be drawn on each. The Reserve Fund Requirement shall be accumulated and, if necessary, reaccumulated from time to time, in the Reserve Fund from Net Pledged Revenues, except to the extent other moneys are credited to the Reserve Fund, and maintained as a continuing reserve to be used, except as hereinafter provided in Section 6.07, Section 6.08, Section 7.04 and Section 13.01 hereof, only to prevent deficiencies in the payment of the Bond Requirements of the Bonds Outstanding from time to time from the failure to deposit into the Bond Fund sufficient moneys to pay such Bond Requirements as the same accrue and become due. No payment need be made into the Reserve Fund at any time so long as the moneys and/or a Reserve Fund Insurance Policy therein equal not less than the Reserve Fund Requirement and there are no Policy Costs due and owing. The Reserve Fund Requirement shall be re-calculated upon (i) any principal payment, whether at stated maturity or upon redemption, or (ii) the defeasance of all or a portion of the Bonds.

The District may at any time substitute (a) cash or Investment Securities for a Reserve Fund Insurance Policy or (b) a Reserve Fund Insurance Policy for cash or Investment Securities, so long as the amount on deposit in the Reserve Fund after such substitution is at least equal to the Reserve Fund Requirement. Notwithstanding the foregoing, no Reserve Fund Insurance Policy shall be deposited by the District in the Reserve Fund for such substitution unless the District has received an opinion of Bond Counsel to the effect that such substitution and the intended use by the District of the cash or Investment Securities to be released from the Reserve Fund will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

Section 6.07 Termination of Deposits. No payment need be made into the Bond Fund or the Reserve Fund if there are no Policy Costs due and owing and if the amount in the Bond Fund and the amount in the Reserve Fund (exclusive of the amount available under a Reserve Fund Insurance Policy) total a sum at least sufficient so that all Bonds Outstanding are deemed to have been paid pursuant to Section 13.01 hereof, in which case moneys therein (taking into account the known minimum gain from any investment if such moneys in Investment Securities from the time of any such investment or deposit shall be needed for such payment which will not be designated for transfer to the Rebate Fund) shall be used (together with any such gain from such investments) solely to pay the Bond Requirements of the Outstanding Bonds as the same become due; and any moneys in excess thereof in those two accounts and any other moneys derived from the Net Pledged Revenues or otherwise pertaining to the System may be used to make required payments into the Rebate Fund or in any other lawful manner determined by the Board.

Section 6.08 Defraying Delinquencies. If at any time the District shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Net Pledged Revenues, then an amount shall be paid into the Bond Fund at such time from the Reserve Fund equal to the difference between that paid from the Net Pledged Revenues and the full amount so stipulated. The District shall use all cash in the Reserve Fund before drawing on a Reserve Fund Insurance Policy. If, (i) upon notice from the District requesting a draw or (ii) failure of the Paying Agent to receive the Bond Requirements by the third Business Day prior to February 1 or August 1 in each year, the Paying Agent determines that it is necessary to draw on a Reserve Fund Insurance Policy, the Paying Agent shall present a demand for payment, in the form and manner required by a Reserve Fund Insurance Policy, at least two Business Days before funds are needed. If there is more than one Reserve Fund Insurance Policy on deposit in the Reserve Fund, the Paying Agent shall draw on them on a pro rata basis, based upon the amount available to be drawn on each.

Any money so used or drawn shall be replaced as provided in Section 6.06 hereof from the first Net Pledged Revenues thereafter received and not required to be otherwise applied by this Article. Except as provided in Section 6.06 hereof, the moneys in the Bond Fund and in the Reserve Fund (including any Reserve Fund Insurance Policy) shall be used solely and only for the purpose of paying the Bond Requirements of the Bonds from time to time. If moneys in the Reserve Fund are in excess of the Reserve Fund Requirement at any time, such excess may be transferred by the District to the Rebate Fund or the Bond Fund.

Section 6.09 Rebate Fund. Fourth, concurrently with any payments required to be made pursuant to any Parity Bond Resolutions with respect to any rebate funds established thereby, there shall be deposited into the special and separate accounts in the Rebate Fund moneys in the amounts and at the times specified in the Tax Compliance Certificate so as to enable the District to comply with Section 9.03 hereof. Amounts on deposit in the Rebate Fund shall not be subject to the lien and pledge of this Resolution to the extent that such amounts are required to be paid to the United States Treasury. The District shall cause amounts on deposit in the Rebate Fund to be forwarded to the United States Treasury (at the address provided in the Tax Compliance Certificate) at the times and in the amounts set forth in the Tax Compliance Certificate.

If the moneys on deposit in the Rebate Fund is insufficient for the purposes thereof, the District shall transfer moneys in the amount of the insufficiency to the Rebate Fund from Reserve Fund and the Bond Fund. Upon receipt by the District of an opinion of Bond Counsel to the effect that the amount in the Rebate Fund is in excess of the amount required to be contained therein, such excess may be transferred to the Income Fund.

Section 6.10 Payment of Subordinate Securities. Fifth, and subject to the provisions hereinabove in this Article, but subsequent to the payments required by Section 6.04, Section 6.05, Section 6.06, and Section 6.09 hereof, any moneys remaining in the Income Fund may be used by the District for the payment of Bond Requirements of subordinate securities, including reasonable reserves for such subordinate securities and for rebate of amounts to the United States Treasury with respect to such subordinate securities.

Section 6.11 Use of Remaining Revenues. After the payments hereinabove required to be made by Section 6.02 through Section 6.10 hereof are made, any remaining Net Pledged Revenues in the Income Fund shall be used, first, for any one or any combination of reasonably necessary purposes and in the Board's discretion relating to the operation, improvement or debt management of the System and, second, to the extent of any remaining surplus, for any one or any combination of lawful purposes as the Board may from time to time conclusively determine.

ARTICLE VII.

GENERAL ADMINISTRATION

Section 7.01 Administration of Accounts. The special accounts designated in Articles V and VI hereof shall be administered as provided in this Article (but not any account under Section 13.01 hereof).

Section 7.02 Places and Times of Deposits. Except as hereinafter provided, each of such special accounts shall be maintained by the District as a book account and kept separate from

all other accounts as a trust account solely for the purposes herein designated therefor. The moneys accounted for in such special book accounts may be in one or more bank accounts in one or more Commercial Banks. Each such bank account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper book account not later than the date therefor herein designated, except that when any such date shall not be a Business Day, then such payment shall be made on or before the next preceding Business Day. Moneys shall be deposited with the Paying Agent for the Bonds not less than (a) three Business Days prior to each interest payment date and each maturity or mandatory Redemption Date, if funds are delivered by wire transfer, or (b) five Business Days prior to each payment date if funds are delivered by another method of payment, in immediately available amounts sufficient to pay the Bond Requirements then becoming due on the Outstanding Bonds.

Section 7.03 Investment of Moneys. Any moneys in the Acquisition Fund, Income Fund, Bond Fund, Reserve Fund, and Rebate Fund and not needed for immediate use shall be invested or reinvested by the General Manager in Investment Securities. All such investments shall (a) either be subject to redemption at any time at a fixed value by the holder thereof at the option of such holder, or (b) mature not later than the estimated date or respective dates on which the proceeds are to be expended as estimated by the General Manager at the time of such investment or reinvestment; provided that (1) Investment Securities credited to the Reserve Fund shall not mature later than ten years from the date of such investment or reinvestment and (2) collateral securities of any Investment Securities may have a maturity of more than five years from the date of purchase thereof. For the purpose of any such investment or reinvestment, Investment Securities shall be deemed to mature at the earliest date on which the obligor is, on demand, obligated to pay a fixed sum in discharge of the whole of such obligations.

Section 7.04 Accounting for Investments. The Investment Securities so purchased as an investment or reinvestment of moneys in any such account hereunder shall be deemed at all times to be a part of the account. Any interest or other gain from any investments and reinvestments of moneys accounted for in the Acquisition Fund, Income Fund, the Bond Fund, and the Rebate Fund shall be credited to such account, and any loss resulting from any such investments or reinvestments of moneys accounted for in the Acquisition Fund, the Income Fund, the Bond Fund, the Reserve Fund, and the Rebate Fund shall be charged or debited to such Fund.

Any interest or other gain from any investment or reinvestment of moneys accounted for in the Reserve Fund (a) shall be credited to the Rebate Fund or the Bond Fund, at the discretion of the General Manager, if the amount credited to the Reserve Fund immediately after such credit to the Rebate Fund or the Bond Fund is not less than the Reserve Fund Requirement and (b) if the amount credited to the Reserve Fund is less than the Reserve Fund Requirement, shall be credited to the Reserve Fund (up to the amount of the deficiency).

No loss or profit in any account on any investments or reinvestments in Investment Securities shall be deemed to take place as a result of market fluctuations of the Investment Securities prior to the sale or maturity thereof. In the computation of the amount in any account for any purpose hereunder, except as herein otherwise expressly provided or for rebate purposes, as described in the Tax Compliance Certificate, Investment Securities shall be valued at the cost

thereof (including any amount paid as accrued interest at the time of purchase of the obligation); provided that any time or demand deposits shall be valued at the amounts deposited, in each case exclusive of any accrued interest or any other gain to the District until such gain is realized by the presentation of matured coupons for payment or otherwise.

Section 7.05 Redemption or Sale of Investment Securities. The General Manager shall present for redemption or sale on the prevailing market at the best price obtainable any Investment Securities so purchased as an investment or reinvestment of moneys in the account whenever it shall be necessary in order to provide moneys to meet any withdrawal, payment or transfer from such account. Neither the General Manager nor any other officer or employee of the District shall be liable or responsible for any loss resulting from any such investment or reinvestment made in accordance with this Resolution.

Section 7.06 Character of Funds. The moneys in any account designated in Articles V and VI hereof shall consist either of lawful money of the United States or Investment Securities, or both such money and such Investment Securities. Moneys deposited in a demand or time deposit account in a bank or savings and loan association, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States.

Section 7.07 Payment of Bond Requirements. The moneys credited to any fund or account designated in Article VI hereof for the payment of the Bond Requirements of any Bonds shall be used without requisition, voucher, warrant, further order or authority (other than is contained herein), or any other preliminaries, to pay promptly the Bond Requirements of any Bonds payable from such fund or account as such amounts are due, except to the extent any other moneys are available therefor.

ARTICLE VIII.

SECURITIES LIENS AND ADDITIONAL SECURITIES

Section 8.01 Lien on Bonds. The Bonds constitute an irrevocable lien (but not necessarily an exclusive such lien) upon the Net Pledged Revenues on a parity with the lien thereon of the Parity Bonds. The Policy Costs constitute an irrevocable and subordinate lien (but not necessarily an exclusive subordinate lien) upon the Net Pledged Revenues.

Section 8.02 Equality of Bonds. The Bonds and any Parity Bonds heretofore issued or hereafter authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Pledged Revenues shall not be entitled to any priority one over the other in the application of the Net Pledged Revenues regardless of the time or times of the issuance of the Bonds and any other such Parity Bonds, it being the intention of the Board that there shall be no priority among the Bonds and any such Parity Bonds regardless of the fact that they may be actually issued and delivered at different times, except that (a) moneys in the Acquisition Fund, moneys in the Bond Fund and Reserve Fund shall secure only the Bonds and the moneys in any acquisition, bond, reserve or similar funds established for Parity Bonds shall secure only such Parity Bonds and (b) Parity Bonds may have a lien on Net Pledged Revenues on a parity with the lien thereon of the Bonds even if no reserve fund is established for such Parity Bonds or a reserve fund is established but with a different requirement as to the amount of moneys (or the value of a

reserve fund insurance policy with respect to such Parity Bonds) required to be on deposit therein or the manner in which such reserve fund is funded or the period of time over which such reserve fund is funded or additional or separate revenues are also pledged to such Parity Bonds.

Section 8.03 Issuance of Additional Parity Bonds. Nothing herein prevents the issuance by the District of additional securities payable from the Net Pledged Revenues and constituting a lien thereon on a parity with, but not prior nor superior to, the lien thereon of the Bonds; but before any such additional Parity Bonds, except as provided in Section 8.08 hereof, are authorized or actually issued:

A. Absence of Default. At the time of the adoption of the resolution authorizing the issuance of the additional securities, the District shall not be in default in making any payments required by Article VI hereof or other Parity Bond Resolutions, including any payments of Policy Costs.

B. Historic Earnings Test. The Net Pledged Revenues derived in any consecutive twelve month period within the eighteen months immediately preceding the date of issuance of the additional Parity Bonds shall be not less than 110% of the Combined Maximum Annual Principal and Interest Requirements of the Outstanding Bonds, any Outstanding Parity Bonds and the Parity Bonds proposed to be issued and 100% of the Policy Costs then due and owing, if any, except as hereinafter otherwise expressly provided.

C. Adjustment of Gross Pledged Revenues. In any computation under paragraph B of this Section, the amount of the Gross Pledged Revenues for the applicable period shall be decreased and may be increased by the amount of loss or gain conservatively estimated by an Independent Accountant, Independent Engineer or the General Manager, as the case may be, which results from any changes, which became effective not less than 60 days prior to the last day of the period for which Gross Pledged Revenues are determined, in any schedule of fees, rates and other charges constituting Gross Pledged Revenues based on the number of users during the applicable period as if such modified schedule of fees, rates and other charges shall have been in effect during such entire time period. However, the Gross Pledged Revenues need not be decreased by the amount of any such estimated loss to the extent the Independent Accountant, the Independent Engineer or the General Manager estimates the loss is temporary in nature or will be offset within a reasonable temporary period by an increase in revenues or a reduction in Operation and Maintenance Expenses not otherwise included in the calculations under this Section, and estimates any loss under this sentence will not at any time materially and adversely affect the District's apparent ability to comply with the rate maintenance covenant stated in Section 9.21 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

D. Reduction of Annual Requirements. The respective annual Bond Requirements (including as such a requirement the amount of any prior redemption premiums due on any Redemption Date) shall be reduced to the extent such Bond Requirements are scheduled to be paid in each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Trust Bank, including the known minimum yield from any investment in Federal Securities and any bank deposits, including any certificate of deposit.

E. Consideration of Additional Expenses. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in the Operation and Maintenance Expenses of the System as estimated by the General Manager that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional securities; but the General Manager may reduce any such increase in Operation and Maintenance Expenses by the amount of any increase in revenues or any reduction in Operation and Maintenance Expenses resulting from the Capital Improvements to which such expenditure relates and not otherwise included in the calculations under this Section, if the General Manager also opines that any such increase in revenues or reduction in any increase in Operation and Maintenance Expenses will not materially and adversely affect the District's apparent ability to comply with the rate maintenance covenant stated in Section 9.21 hereof without modification because of any restrictive legislation, regulation or other action under the police power exercised by any governmental body.

Section 8.04 Certification of Revenues. A written certificate or written opinion by the General Manager under Section 8.03B that such annual revenues, when adjusted as hereinabove provided in paragraphs C, D, and E of Section 8.03 hereof, are sufficient to pay such amounts, as provided in paragraph B of Section 8.03 hereof, shall be conclusively presumed to be accurate in determining the right of the District to authorize, issue, sell and deliver additional securities on a parity with the Bonds.

Section 8.05 Subordinate Securities Permitted. Nothing herein prevents the District from issuing additional securities payable from the Net Pledged Revenues and having a lien thereon subordinate, inferior and junior to the lien thereon of the Bonds.

Section 8.06 Superior Securities Prohibited. Nothing herein permits the District to issue additional securities payable from the Net Pledged Revenues and having a lien thereon prior and superior to the lien thereon of the Bonds.

Section 8.07 Use of Proceeds. The proceeds of any Parity Bonds or other securities payable from any Net Pledged Revenues shall be used only to finance Capital Improvements or to refund all or any portion of the Bonds, Parity Bonds, or other securities payable from Net Pledged Revenues, regardless of the priority or the lien of such securities on Net Pledged Revenues.

Section 8.08 Issuance of Refunding Securities. The District may issue any refunding securities payable from Net Pledged Revenues to refund any Outstanding Bonds, Parity Bonds or any subordinate securities hereafter issued, with such details as the Board may by resolution provide so long as there is no impairment of any contractual obligation imposed upon the District by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding securities of any one or more issues; but so long as the Bonds, or any part thereof, are Outstanding, refunding securities payable from Net Pledged Revenues may be issued on a parity with the unrefunded Bonds only if:

A. Prior Consent. The District first receives the consent of the Owner or Owners of the unrefunded portion of the Bonds; or

B. Requirements Not Increased. The Combined Maximum Annual Principal and Interest Requirements for the Bonds and Parity Bonds Outstanding immediately after the issuance of the refunding securities is not greater than the Combined Maximum Annual Principal and Interest Requirements for all Bonds and Parity Bonds Outstanding immediately prior to the issuance of the refunding securities and the lien of any refunding Parity Bonds on the Net Pledged Revenues is not raised to a higher priority than the lien thereon of any securities thereby refunded; or

C. Earnings Test. The refunding securities are issued in compliance with Section 8.03B hereof.

ARTICLE IX.

PROTECTIVE COVENANTS

Section 9.01 General. The District hereby covenants and agrees with the Owners of the Bonds and makes provisions which shall be a part of its contract with such Owners to the effect and with the purpose set forth in the following Sections of this Article.

Section 9.02 Performance of Duties. The District, acting by and through the Board or otherwise, shall faithfully and punctually perform, or cause to be performed, all duties with respect to the Gross Pledged Revenues and the System required by the Constitution and laws of the State and the various resolutions of the District, including, without limitation, the making and collection of reasonable and sufficient fees, rates and other charges for services rendered or furnished by or the use of the System, as herein provided, and the proper segregation of the proceeds of the Bonds and of any securities hereafter authorized and the Gross Pledged Revenues and their application from time to time to the respective accounts provided therefor.

Section 9.03 Contractual Obligations. The District shall perform all contractual obligations undertaken by it under any agreements relating to the Bonds, the Gross Pledged Revenues, the Project, or the System, or any combination thereof, with any other Persons.

Section 9.04 Further Assurances. At any and all times the District shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge, deliver and file or record all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents and assurances as may be reasonably necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Gross Pledged Revenues and other moneys and accounts hereby pledged or assigned, or intended so to be, or which the District may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Resolution and to comply with any instrument of the District amendatory thereof, or supplemental thereto. The District, acting by and through the Board, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Gross Pledged Revenues and other moneys and accounts pledged hereunder and all the rights of every Owner of any Bond hereunder against all claims and demands of all Persons whomsoever.

Section 9.05 Conditions Precedent. Upon the date of issuance of the Bonds, all conditions, acts and things required by the Federal or State Constitution, the Water Activity Act,

the Supplemental Public Securities Act, this Resolution, or any other applicable law to exist, to have happened and to have been performed precedent to or in the issuance of the Bonds shall exist, have happened, and have been performed; and the Bonds, together with all other obligations of the District, shall not contravene any debt or other limitation prescribed by the State Constitution.

Section 9.06 Efficient Operation and Maintenance. The District shall at all times operate the System properly and in a sound and economical manner; and the District shall maintain, preserve and keep the same properly or cause the same so to be maintained, preserved and kept, with the appurtenances and every part and parcel thereof in good repair, working order and condition, and shall from time to time make or cause to be made all necessary and proper repairs, replacements and renewals so that at all times the operation of the System may be properly and advantageously conducted. All salaries, fees, wages and other compensation paid by the District in connection with the maintenance, repair and operation of the System shall be reasonable and proper.

Section 9.07 Rules, Regulations and Other Details. The District, acting by and through the Board, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the System. The District shall observe and perform all of the terms and conditions contained in this Resolution, and shall comply with all valid acts, rules, regulations, orders and directions of any legislative, executive, administrative or judicial body applicable to the System or to the District, except for any period during which the same are being contested in good faith by proper legal proceedings.

Section 9.08 Payment of Governmental Charges. The District shall pay or cause to be paid all taxes and assessments or other governmental charges, if any, lawfully levied or assessed upon or in respect of the System, or upon any part thereof, or upon any portion of the Gross Pledged Revenues, when the same shall become due, and shall duly observe and comply with all valid requirements of any governmental authority relative to the System or any part thereof, except for any period during which the same are being contested in good faith by proper legal proceedings. The District shall not create or suffer to be created any lien upon the System, or any part thereof, or upon the Gross Pledged Revenues, except the pledge and lien created by this Resolution for the payment of the Bond Requirements of the Bonds and except as herein otherwise permitted. The District shall pay or cause to be discharged or shall make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the System, or any part thereof, or the Gross Pledged Revenues; but nothing herein requires the District to pay or cause to be discharged or to make provision for any such tax, assessment, lien or charge, so long as the validity thereof is contested in good faith and by appropriate legal proceedings.

Section 9.09 Protection of Security. The District, the officers, agents and employees of the District, and the Board shall not take any action in such manner or to such extent as might prejudice the security for the payment of the Bond Requirements of the Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues or any Policy Costs relating thereto according to the terms thereof. No contract shall be entered into nor any other action taken by which the rights of any Owner of any Bond or other security payable from Net Pledged Revenues or any Policy Costs relating thereto might be prejudicially and materially impaired or diminished.

Section 9.10 Prompt Payment of Bonds. The District shall promptly pay the Bond Requirements of the Bonds at the places, on the dates and in the manner specified herein and in the Bonds according to the true intent and meaning hereof.

Section 9.11 Use of Bond and Reserve Funds. The Bond Fund and the Reserve Fund shall be used solely and only and the moneys credited to such accounts are hereby pledged for the purpose of paying the Bond Requirements of the Bonds to their respective maturities or any Redemption Date or Dates, subject to the provisions of Section 6.06, Section 6.07, Section 6.08, Section 7.04 and Section 13.01 hereof.

Section 9.12 Other Liens. Other than as provided herein, there are no liens or encumbrances of any nature whatsoever on or against the System, or any part thereof, or on or against the Gross Pledged Revenues on a parity with or superior to the lien thereon of the Bonds.

Section 9.13 Corporate Existence. The District shall maintain its corporate identity and existence so long as any of the Bonds remain Outstanding, unless another body corporate and politic by operation of law succeeds to the powers, privileges, rights, liabilities, disabilities, duties and immunities of the District and is obligated by law to operate and maintain the System and to fix and collect the Gross Pledged Revenues as herein provided without adversely and materially affecting at any time the privileges and rights of any Owner of any Outstanding Bond.

Section 9.14 Disposal of System Prohibited. Except for the use of the System and services pertaining thereto in the normal course of business, or as provided in Section 9.15 hereof, neither all nor a substantial part of the System shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the Bonds have been paid in full, as to all Bond Requirements, or unless provision has been made therefor, or until the Bonds have otherwise been redeemed, including, without limitation, the termination of the pledge as herein authorized; and the District shall not dispose of its title to the System or to any useful part thereof, including any property necessary to the operation and use of the System and the lands and interests in lands comprising the sites of the System.

Section 9.15 Disposal of Unnecessary Property. The District at any time and from time to time may sell, exchange, lease or otherwise dispose of any property constituting a part of the System and not useful in the construction, reconstruction or operation thereof, or which shall cease to be necessary for the efficient operation of the System, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange, lease or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, shall be deposited by the District in the Income Fund or into a special book account for the betterment, enlargement, extension, other improvement and equipment of the System, or any combination thereof, as the Board may determine, provided that any proceeds of any such lease received shall be deposited by the District as Gross Pledged Revenues in the Income Fund.

Section 9.16 Competing System. So long as any of the Bonds are Outstanding, the District shall not grant any franchise or license to any competing facilities so that the Gross Pledged Revenues shall not be sufficient to satisfy the covenant in Section 9.21 hereof.

Section 9.17 Loss From Condemnation. If any part of the System is taken by the exercise of the power of eminent domain, the amount of any award received by the District as a result of such taking shall be paid into the Income Fund or into a capital improvement account pertaining to the System for the purposes thereof, or, applied to the redemption of the Outstanding Bonds and any Outstanding Parity Bonds relating thereto, all as the District may determine.

Section 9.18 Employment of Management Engineers. If the District defaults in paying the Bond Requirements of the Bonds, the Parity Bonds, and any other securities or Policy Costs relating thereto payable from the Gross Pledged Revenues promptly as the same fall due, or an Event of Default has occurred and is continuing, or if the Net Pledged Revenues in any Fiscal Year fail to equal at least the amount of the Bond Requirements of the Outstanding Bonds, Parity Bonds, and any other securities (including all reserves therefor specified in the authorizing proceedings, including, without limitation, this Resolution) or Policy Costs relating thereto payable from the Net Pledged Revenues in that Fiscal Year, the District shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the System so long as such default continues or so long as the Net Pledged Revenues are less than the amount hereinabove designated in this Section.

Section 9.19 Budgets. The Board and officials of the District shall annually and at such other times as may be provided by law prepare and adopt a budget pertaining to the System.

Section 9.20 Reasonable and Adequate Charges. While the Bonds remain Outstanding and unpaid, the fees, rates and other charges due to the District for the use of or otherwise pertaining to and services rendered by the System to the District, to its inhabitants and to all other users within and without the boundaries of the District shall be reasonable and just, taking into account and consideration public interests and needs, the cost and value of the System, the Operation and Maintenance Expenses thereof, and the amounts necessary to meet the Bond Requirements of all Bonds, the Parity Bonds, and any other securities payable from the Net Pledged Revenues, including, without limitation, reserves and any replacement accounts therefor.

Section 9.21 Adequacy and Applicability of Charges. There shall be charged against users of service pertaining to and users of the System, including the District, except as provided by Section 9.22 hereof, such fees, rates and other charges so that the Gross Pledged Revenues shall be adequate to meet the requirements of this and the preceding Sections hereof. Such charges pertaining to the System shall be at least sufficient so that the Gross Pledged Revenues annually are sufficient to pay in each Fiscal Year:

A. Operation and Maintenance Expenses. An amount equal to the annual Operation and Maintenance Expenses for such Fiscal Year;

B. Principal and Interest. An amount equal to 110% of both the principal and interest on the Bonds and any Parity Bonds then Outstanding payable from the Net Pledged Revenues in that Fiscal Year (excluding the reserves therefor); and

C. Deficiencies. Any amounts required to pay all Policy Costs, if any, due and owing and all sums, if any, due and owing to meet then existing deficiencies pertaining to any fund or account relating to the Gross Pledged Revenues or any securities payable therefrom.

Section 9.22 Limitations Upon Free Service. No free service or facilities shall be furnished by the System, except that the District shall not be required to pay for any use by the District of any facilities of the System for District purposes or for fire protection purposes. If the District chooses, in its sole discretion, to pay for its use of the System, all the income so derived from the District shall be deemed to be income derived from the operation of the System, to be used and to be accounted for in the same manner as any other income derived from the operation of the System.

Section 9.23 Levy of Charges. The District shall forthwith and in any event prior to the delivery of any of the Bonds, fix, establish and levy the fees, rates and other charges which are required by Section 9.21 of this Resolution, if such action is necessary therefor. No reduction in any initial or existing rate schedule for the System may be made:

A. **Proper Application.** Unless the District has fully complied with the provisions of Article VI of this Resolution for at least the full Fiscal Year immediately preceding such reduction of the initial or any other existing rate schedule; and

B. **Sufficient Revenues.** Unless the audit required by the Independent Accountant by Section 9.27 hereof for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule for the System, after the schedule's proposed reduction, shall be at least sufficient to produce the amounts required by Section 9.21 hereof.

Section 9.24 Collection of Charges. The District shall cause all fees, rates and other charges pertaining to the System to be collected as soon as is reasonable, shall reasonably prescribe and enforce rules and regulations or impose contractual obligations for the payment of such charges, and for the use of the System, and shall provide methods of collection and penalties, to the end that the Gross Pledged Revenues shall be adequate to meet the requirements of this Resolution and any other resolution supplemental thereto.

Section 9.25 Procedure for Collecting Charges. All bills for water and sewer services and all other services or facilities furnished or served by or through the System shall be rendered to customers on a regularly established basis. The fees, rates and other charges due shall be collected in a lawful manner, including, without limitation, discontinuance of service.

Section 9.26 Maintenance of Records. So long as any of the Bonds and any Parity Bonds payable from the Gross Pledged Revenues remain Outstanding, proper books of record and account shall be kept by the District, separate and apart from all other records and accounts.

Section 9.27 Audits Required. The District, within 180 days following the close of each Fiscal Year, shall order an audit for the Fiscal Year of such books and accounts to be made forthwith by an Independent Accountant, and order an audit report showing the receipts and disbursements for each account pertaining to the System and the Gross Pledged Revenues.

Section 9.28 Accounting Principles. System records and accounts, and audits thereof, shall be currently kept and made, as nearly as practicable, in accordance with the then generally accepted accounting principles, methods and terminology followed and construed for utility operations comparable to the System, except as may be otherwise provided herein or required by

applicable law or regulation or by contractual obligation existing on the effective date of this Resolution.

Section 9.29 Insurance and Reconstruction. Except to the extent of any self-insurance, the District shall at all times maintain with responsible insurers fire and extended coverage insurance, worker's compensation insurance, public liability insurance and all such other insurance as is customarily maintained with respect to utilities of like character against loss of or damage to the System and against loss of revenues and against public and other liability to the extent reasonably necessary to protect the interests of the District and of each Owner of a Bond. If any useful part of the System shall be damaged or destroyed, the District shall, as expeditiously as may be possible, commence and diligently proceed with the repair or replacement of the damaged property so as to restore the same to use. The proceeds of any such insurance shall be payable to the District and (except for proceeds of any use and occupancy insurance) shall be applied to the necessary costs involved in such repair and replacement and to the extent not so applied shall (together with the proceeds of any such use and occupancy insurance) be deposited in the Income Fund by the District as revenues derived from the operation of the System. If the costs of such repair and replacement of the damaged property exceed the proceeds of such insurance available for the payment of the same, moneys in the Income Fund shall be used to the extent necessary for such purposes, as permitted by Section 6.10 hereof.

Section 9.30 Federal Income Tax Exemption.

A. The District covenants for the benefit of the Owners of the Bonds that it will not take any action or omit to take any action with respect to the Bonds, the proceeds thereof, any other funds of the District or any facilities financed or refinanced with the proceeds of the Bonds if such action or omission (a) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Code, (b) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2), or (c) would cause interest on the Bonds to lose its exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present State law. In furtherance of this covenant, the District agrees to comply with the procedures set forth in the Tax Compliance Certificate. The foregoing covenant shall remain in full force and effect notwithstanding the payment in full or defeasance of the Bonds until the date on which all obligations of the District in fulfilling the above covenant under the Code and Colorado law have been met.

Section 9.31 Continuing Disclosure. The District shall comply with the provisions of the Continuing Disclosure Certificate. Any failure by the District to perform in accordance with this Section shall not constitute an Event of Default under this Resolution, and the rights and remedies provided by this Resolution upon the occurrence of an Event of Default shall not apply to any such failure. The Paying Agent shall not have any power or duty to enforce this Section. No Owner of a Bond shall be entitled to damages for the District's non-compliance with its obligations under this Section; however, the Owners of the Bonds may enforce specific performance of the obligations contained in this Section by any judicial proceeding available.

ARTICLE X.

PRIVILEGES, RIGHTS AND REMEDIES

Section 10.01 Owners' Remedies. Each Owner of any Bond shall be entitled to all of the privileges, rights and remedies provided or permitted in this Resolution, and as otherwise provided or permitted by law or in equity or by any statutes, except as provided in Section 2.02 through Section 2.06 and Section 12.01 hereof, but subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Gross Pledged Revenues and the proceeds of the Bonds.

Section 10.02 Right to Enforce Payment. Nothing in this Article affects or impairs the right of any Owner of any Bond to enforce the payment of the Bond Requirements due in connection with his or her Bond or the obligation of the District to pay the Bond Requirements of each Bond to the Owner thereof at the time and the place expressed in the Bond.

Section 10.03 Events of Default. Each of the following events is hereby declared an "Event of Default," provided however, that in determining whether a payment default has occurred pursuant to paragraphs A or B of this Section, no effect shall be given to payments made under an insurance policy:

A. **Nonpayment of Principal.** Payment of the principal of any of the Bonds is not made when the same becomes due and payable, either at maturity or by proceedings for prior redemption, or otherwise;

B. **Nonpayment of Interest.** Payment of any installment of interest on any of the Bonds is not made when the same becomes due and payable;

C. **Cross Defaults.** The occurrence and continuance of an "event of default," as defined in any Parity Bond Resolution;

D. **Failure to Reconstruct.** The District unreasonably delays or fails to carry out with reasonable dispatch the reconstruction of any part of the System which is destroyed or damaged and is not promptly repaired or replaced (whether such failure promptly to repair the same is due to impracticability of such repair or replacement or is due to a lack of moneys therefor or for any other reason), but it shall not be an Event of Default if such reconstruction is not essential to the efficient operation of the System;

E. **Appointment of Receiver.** An order or decree is entered by a court of competent jurisdiction with the consent or acquiescence of the District appointing a receiver or receivers for the System or for the Gross Pledged Revenues and any other moneys subject to the lien to secure the payment of the Bonds, or if an order or decree having been entered without the consent or acquiescence of the District is not vacated or discharged or stayed on appeal within 60 days after entry;

F. **Default Under Insurance Agreement.** If an event of default shall have occurred and be continuing under the provisions of the Insurance Agreement; and

G. Default of Any Provision. The District defaults in the due and punctual performance of any other of the representations, covenants, conditions, agreements and other provisions contained in the Bonds or in this Resolution on its part to be performed (other than Section 9.31 hereof), and such default continues for 60 days after written notice specifying such default and requiring the same to be remedied is given to the District and the Insurer specifying the failure and requiring that it be remedied, which notice may be given by the Paying Agent in its discretion and, except as provided in Section 12.01 hereof, shall be given by the Paying Agent at the written request of the Owners of not less than 25 percent in aggregate principal amount of Bonds then Outstanding.

Section 10.04 Remedies for Defaults. Except as provided in Section 12.01 hereof, upon the happening and continuance of any Event of Default, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, including, without limitation, a trustee or trustees therefor, may proceed against the District and its agents, officers and employees to protect and to enforce the rights of any Owner of Bonds under this Resolution by mandamus or by other suit, action or special proceedings in equity or at law, in any court of competent jurisdiction, either for the appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Owner or Owners may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any Owner of any Bond, or to require the District to act as if it were the trustee of an expressed trust, or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Owners of the Bonds.

Section 10.05 Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such Owners hereunder, the consent to any such appointment being hereby expressly granted by the District, may enter and may take possession of the System, may operate and maintain the same, may prescribe fees, rates and other charges, and may collect, receive and apply all Gross Pledged Revenues arising after the appointment of such receiver in the same manner as the District itself might do.

Section 10.06 Rights and Privileges Cumulative. The failure of any Owner of any Outstanding Bond to proceed in any manner herein provided shall not relieve the District, or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such Owner (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any Owner shall not be deemed a waiver of any other right or privilege thereof.

Section 10.07 Duties Upon Defaults. Upon the happening of any Event of Default, the District shall do and perform all proper acts on behalf of and for the Owners of Bonds to protect and to preserve the security created for the payment of the Bonds and to insure the payment of the Bond Requirements promptly as the same become due. While any Event of Default exists, except to the extent it may be unlawful to do so, all Gross Pledged Revenues shall be paid into the Bond Fund and into bond or similar funds established for any Parity Bonds then Outstanding, pro rata based upon the aggregate principal amount of the Bonds and Parity Bonds then Outstanding.

Except as provided in Section 12.01 hereof, if the District fails or refuses to proceed as in this Section provided, the Owner or Owners of not less than 25% in aggregate principal amount of the Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the Owners of the Bonds as hereinabove provided, and to that end any such Owners of the Outstanding Bonds shall be subrogated to all rights of the District under any agreement, lease or other contract involving the System or the Gross Pledged Revenues entered into prior to the effective date of this Resolution or thereafter while any of the Bonds are Outstanding.

ARTICLE XI.

AMENDMENT OF RESOLUTION

Section 11.01 Privilege of Amendments.

A. Except as hereafter provided, this Resolution may be amended or supplemented by resolutions adopted by the Board in accordance with law, without receipt by the District of any additional consideration, but with the written consent of the Insurer and, subject to Section 12.01 hereof, the Owners of not less than 66% in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory or supplemental resolution excluding, pursuant to Section 1.03 hereof, any Bonds which may then be held or owned for the account of the District. Notwithstanding the foregoing, no such resolution shall permit:

(1) Changing Payment. A change in the maturity, terms of redemption or interest payment of any Outstanding Bond; or

(2) Reducing Return. A reduction in the principal amount of any Bond or the rate of interest thereon, without the consent of the Owner of the Bond; or

(3) Prior Lien. The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Resolution; or

(4) Modifying Any Bond. A reduction of the principal amount or percentages or otherwise affecting the description of Bonds the consent of the Owners of which is required for any such modification or amendment; or

(5) Priorities Between Bonds. The establishment of priorities as between Bonds issued and Outstanding; or

(6) Modification of Less Than All the Bonds. The modification of or otherwise affecting the rights of the Owners of less than all of the Outstanding Bonds.

B. Notwithstanding the foregoing provisions of this Section, this Resolution and the rights and obligations of the District and of the Owners of the Bonds may also be modified or amended at any time, with the written consent of the Insurer but without the consent of any Owners of the Bonds, but only to the extent permitted by law and only for any or all of the following purposes:

(1) to add to the covenants and agreements of the District in this Resolution contained other covenants and agreements thereafter to be observed;

(2) to subject to the covenants and agreements of the District in this Resolution additional System revenues, to be defined and treated as Gross Pledged Revenues, for the purpose of providing additional security for the Bonds and any Parity Bonds;

(3) in connection with the provision of a Reserve Fund Insurance Policy subsequent to the issuance of the Bonds;

(4) to provide for the appointment of a new Paying Agent; or

(5) to make such provisions for the purpose of curing any ambiguity or of curing or correcting any formal defect or omission in this Resolution, or in regard to questions arising under this Resolution, as the District may deem necessary or desirable, and which shall not adversely affect the interests of the Owners of the Bonds.

Section 11.02 Notice of Amendment. Whenever the Board proposes to amend or modify this Resolution under the provisions of this Article, it shall cause notice of the proposed amendment to be mailed to Owners of all Outstanding Bonds at their addresses as the same last appear on the registration records maintained by the Paying Agent and to the Insurer. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file with the General Manager for public inspection. Notice of the proposed amendment, together with a copy of the proposed amendatory resolution, shall be delivered to the Rating Agencies then maintaining a rating on the Bonds at least 15 days in advance of the adoption of the amendment. A full transcript of all proceedings relating to the execution of such amendatory resolution shall be provided to the Insurer.

Section 11.03 Time for Amendment. If the resolution is required to be consented to by the Owners of the Bonds, whenever at any time within one year from the date of the giving of such notice there shall be filed with the General Manager an instrument or instruments executed by the Owners of at least 66% in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed amendatory resolution described in such notice and shall specifically consent to and approve the adoption of such resolution, the Board may adopt such amendatory resolution and such resolution shall become effective. If the resolution is not required to be consented to by the Owners of the Bonds, the amendatory resolution may be adopted by the Board at any time.

Section 11.04 Binding Consent to Amendment. If the Owners of not less than 66% in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such amendatory resolution requiring consent of the Owners of the Bonds, or the predecessors in title of such Owners, shall have consented to and approved the adoption thereof as herein provided, no Owner of any Bond, whether or not such Owner shall have consented to or shall have revoked any consent as in this Article provided, shall have any right or interest to object to the adoption of such amendatory resolution or to object to any of the terms or provisions therein contained or to the

operation thereof or to enjoin or restrain the District from taking any action pursuant to the provisions thereof.

Section 11.05 Time Consent Binding. Any consent given by the Owner of a Bond pursuant to the provisions of this Article shall be irrevocable for a period of 6 months from the date of the giving of the notice above provided for and shall be conclusive and binding upon all future Owners of the same Bond during such period. Such consent may be revoked at any time after 6 months from the date of such giving of such notice by the Owner who gave such consent or by a successor in title by filing notice of such revocation with the General Manager, but such revocation shall not be effective if the Owners of not less than 66% in aggregate principal amount of the Bonds Outstanding as in this Article provided, prior to the attempted revocation, consented to and approved the amendatory resolution referred to in such revocation.

Section 11.06 Unanimous Consent. Notwithstanding anything in the foregoing provisions of this Article, the terms and provisions of this Resolution or of any resolution amendatory thereof or supplemental thereto and the rights and the obligations of the District and of the Owners of the Bonds thereunder may be modified or amended in any respect upon the adoption by the District and upon the filing with the General Manager of a resolution to that effect and with the consent of the Insurer and the Owners of all the then Outstanding Bonds, such consent to be given as provided in Section 11.03 hereof; and no notice to Owners of Bonds shall be required as provided in Section 11.02 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 11.07 Exclusion of District's Bonds. At the time of any consent or of other action taken under this Article, the District shall furnish to the General Manager a certificate of the General Manager, upon which the District may rely, describing all Bonds to be excluded for the purpose of consent or of other action or of any calculation of Outstanding Bonds provided for in this Article, and the District shall not be entitled with respect to such Bonds to give any consent or to take any other action provided for in this Article, as provided in Section 1.03 hereof.

Section 11.08 Notation on Bonds. Bonds authenticated and delivered after the effective date of any action taken as in this Article provided may bear a notation by endorsement or otherwise in form approved by the Board as to such action; and after the approval of such notation, then upon demand of the Owner of any Bond Outstanding and upon presentation of his or her Bond for that purpose at the principal office of the Paying Agent, suitable notation shall be made on such Bond by the Paying Agent as to any such action. If the Board so determines, new Bonds, so modified as in the opinion of the Board conform to such action, shall be prepared, executed, authenticated and delivered; and upon demand of the Owner of any Bond then Outstanding, shall be exchanged without cost to such Owner for Bonds then Outstanding upon surrender of such Bonds.

Section 11.09 Proof of Instruments and Bonds. The fact and date of execution of any instrument under the provisions of this Article, the amount and number of the Bonds held by any Person executing such instrument, and the date of his or her holding the same may be proved as provided by Section 13.03 hereof.

Section 11.10 Copies of Supplemental Resolutions to Rating Agencies. Copies of any supplemental or amendatory resolution shall be sent by the District to the Rating Agencies at least 10 days prior to the effective date thereof.

ARTICLE XII.

INSURANCE POLICY AND RESERVE POLICY PROVISIONS

Section 12.01 Insurer to be Deemed Owner, Rights of the Insurer, Payments by the Insurer: Notices.

A. Notwithstanding any provision of this Resolution to the contrary, so long as the Insurer is not in default in its payment obligations under an Insurance Policy, the Insurer shall at all times be deemed the sole and exclusive Owner of the Outstanding Bonds for the purposes of all approvals, consents, waivers, institution of any action, and the direction of all remedies pursuant to this Resolution, including but not limited to approval of or consent to any amendment of or supplement to this Resolution which requires the consent or approval of the Owners of 66% in aggregate principal amount of the Bonds then Outstanding pursuant to this Resolution; provided, however, that the Insurer shall not be deemed to be the sole and exclusive Owner of the Outstanding Bonds with respect to any amendment or supplement to this Indenture which seeks to amend or supplement this Indenture for the purposes set forth in clauses A (1) through A (6) of Section 11.01 hereof, and provided, further, that the Insurer shall not have the right to direct or consent to District, Paying Agent or Owner action as provided herein, if:

- (1) the Insurer shall be in default under an Insurance Policy;
- (2) any material provision of an Insurance Policy shall be held to be invalid by a final, non-appealable order of a court of competent jurisdiction, or the validity or enforceability thereof shall be contested by the Insurer; or
- (3) a proceeding shall have been instituted in a court having jurisdiction in the premises seeking an order for relief, rehabilitation, reorganization, conservation, liquidation or dissolution in respect of the Insurer and such proceeding is not terminated for a period of 90 consecutive days or such court enters an order granting the relief sought in such proceeding.

B. To the extent that the Insurer makes payment of any principal of or interest on a Bond, it shall be fully subrogated to all of the Owner's rights thereunder in accordance with the terms of an Insurance Policy to the extent of such payment, including the Owner's rights to payment thereof.

C. In the event that the principal of or interest on a Bond shall be paid by the Insurer pursuant to the terms of an Insurance Policy: (1) such Bond shall continue to be "Outstanding" under this Resolution, and (2) the Insurer shall be fully subrogated to all of the rights of the Owner thereof in accordance with the terms and conditions of paragraph B of this Section and an Insurance Policy.

D. This Resolution shall not be discharged unless and until all amounts due to the Insurer have been paid in full or duly provided for.

E. The rights granted under this Resolution to the Insurer to request, consent to or direct any action are rights granted to the Insurer in consideration of its issuance of an Insurance Policy. Any exercise by the Insurer of such rights is merely an exercise of the Insurer's contractual rights and shall not be construed or deemed to be taken for the benefit of or on behalf of the Owners, nor does such action evidence any position of the Insurer, positive or negative, as to whether Owner consent is required in addition to consent of the Insurer.

F. No modification, amendment or supplement to this Resolution shall become effective except upon obtaining the prior written consent of the Insurer.

G. No contract shall be entered into nor any action taken by the District or the Paying Agent pursuant to which the rights of the Insurer or security for or sources of payment of the Bonds under this Resolution may be impaired or prejudiced except upon obtaining the prior written consent of the Insurer.

ARTICLE XIII.

MISCELLANEOUS

Section 13.01 Defeasance. If, when the Bonds shall be paid in accordance with their terms (or payment of the Bonds has been provided for in the manner set forth in the following paragraph), then this Resolution and all rights granted hereunder shall thereupon cease, terminate and become void and be discharged and satisfied.

Payment of any Outstanding Bond shall prior to the maturity or Redemption Date thereof be deemed to have been provided for within the meaning and with the effect expressed in this Section if (a) in case said Bond is to be redeemed on any date prior to its maturity, the District shall have given to the Paying Agent in form satisfactory to it irrevocable instructions to give on a date in accordance with the provisions of Section 4.04 hereof, notice of redemption of such Bond on said Redemption Date, such notice to be given in accordance with the provisions of Section 4.04 hereof, (b) there shall have been deposited with the Paying Agent or a Trust Bank either moneys in an amount which shall be sufficient, and/or Federal Securities which shall not contain provisions permitting the redemption thereof at the option of the issuer, the principal of and the interest on which when due, and without any reinvestment thereof, will provide moneys which, together with the moneys, if any, deposited with or held by the Paying Agent or Trust Bank at the same time, shall be sufficient to pay when due the Bond Requirements due and to become due on said Bond on and prior to the Redemption Date or maturity date thereof, as the case may be, and (c) in the event said Bond is not by its terms subject to redemption within the next sixty days, the District shall have given the Paying Agent in form satisfactory to it irrevocable instructions to give, as soon as practicable in the same manner as the notice of redemption is given pursuant to Section 4.04 hereof, a notice to the Owner of such Bond that the deposit required by (b) above has been made with the Paying Agent or Trust Bank and that payment of said Bond has been provided for in accordance with this Section and stating such maturity or Redemption Date upon which moneys are to be available for the payment of the Bond Requirements of said Bond. Neither such securities

nor moneys deposited with the Paying Agent or Trust Bank pursuant to this Section or principal or interest payments on any such Federal Securities shall be withdrawn or used for any purpose other than, and shall be held in trust for, the payment of the Bond Requirements of said Bond; provided any cash received from such principal or interest payments on such Federal Securities deposited with the Paying Agent or other Trust Bank, if not then needed for such purpose, shall, to the extent practicable, be reinvested in securities of the type described in (b) of this paragraph maturing at times and in amounts sufficient to pay when due the Bond Requirements to become due on said Bond on or prior to such Redemption Date or maturity date thereof, as the case may be. At such time as payment of a Bond has been provided for as aforesaid, such Bond shall no longer be secured by or entitled to the benefits of this Resolution, except for the purpose of any payment from such moneys or securities deposited with the Paying Agent or other Trust Bank.

The release of the obligations of the District under this Section shall be without prejudice to the right of the Paying Agent to be paid reasonable compensation for all services rendered by it hereunder and all its reasonable expenses, charges and other disbursements incurred on or about the administration of and performance of its powers and duties hereunder.

Upon compliance with the foregoing provisions of this Section with respect to all Bonds then Outstanding, this Resolution may be discharged in accordance with the provisions of this Section but the liability of the District in respect of the Bonds shall continue; provided that the Owners thereof shall thereafter be entitled to payment only out of the moneys or Federal Securities deposited with the Paying Agent or other Trust Bank as provided in this Section.

Section 13.02 Delegated Powers. The officers, employees and agents of the District be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution, including, without limitation:

A. Final Certificates. The execution of such certificates as may be reasonably required by the Purchasers, including the Continuing Disclosure Certificate and Insurance Agreement, if any;

B. Paying Agent Agreement. The execution and delivery of an agreement with the Paying Agent necessary or desirable to evidence the acceptance by the Paying Agent of its duties hereunder;

C. Official Statement. The execution and delivery of the final Official Statement; and

D. Bond Purchase Agreement. The execution and delivery of the Purchase Contract between the District and the Purchasers.

Section 13.03 Electronic Signatures. In the event any member of the Board, the General Manager, or other officer, employee, or agent of the District that is authorized or directed to execute any agreement, document, certificate, instrument or other paper in accordance with this Resolution (collectively, "Authorized Documents") is not able to be physically present to manually sign any such Authorized Document, such individual or individuals are hereby authorized to execute Authorized Documents electronically via facsimile or email signature. Any electronic signature so affixed to any Authorized Document shall carry the full legal force and effect of any

original, handwritten signature. This provision is made pursuant to Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act.

Section 13.04 Evidence of Bond Owners. Any request, consent or other instrument which this Resolution may require or may permit to be signed and to be executed by the Owners of any Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such Owner in person or by his or her attorney appointed in writing. Proof of the execution of any such instrument or of an instrument appointing any such attorney, or the holding by any Person of the Bonds shall be sufficient for any purpose of this Resolution (except as otherwise herein expressly provided) if made in the following manner:

A. **Proof of Execution.** The fact and the date of the execution by any Owner of any Bonds or his or her attorney of such instrument may be established by a certificate, which need not be acknowledged or verified, of an officer of a bank or trust company satisfactory to the General Manager, or of any notary public or other officer authorized to take acknowledgments of deeds to be recorded in the state in which he or she purports to act, that the individual signing such request or other instrument acknowledged to him or her the execution thereof, or by an affidavit of a witness of such execution, duly sworn to before such notary public or other officer; the authority of the individual or individuals executing any such instrument on behalf of a corporate Owner of any securities may be established without further proof if such instrument is signed by an individual purporting to be the president or vice president of such corporation with a corporate seal affixed and attested by an individual purporting to be its secretary or an assistant secretary; and the authority of any Person or Persons executing any such instrument in any fiduciary or representative capacity may be established without further proof if such instrument is signed by a Person or Persons purporting to act in such fiduciary or representative capacity; and

B. **Proof of Holdings.** The amount of Bonds held by any Person and the numbers, date and other identification thereof, together with the date of his or her holding the Bonds, shall be proved by the registration records maintained by the Paying Agent.

Section 13.05 Parties Interested Herein. Nothing in this Resolution expressed or implied is intended or shall be construed to confer upon, or to give to, any Person, other than the District, the Paying Agent, the Insurer and the 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 the covenants, stipulations, promises and agreements in this Resolution contained by and on behalf of the District shall be for the sole and exclusive benefit of the District, the Paying Agent, the Insurer, the Surety Provider and the Owners of the Bonds.

Section 13.06 Notices. Except as otherwise may be provided in this Resolution, all notices, certificates, requests or other communications pursuant to this Resolution shall be in writing and shall be sufficiently given and shall be deemed given by personal delivery or when mailed by first class mail, and either delivered or addressed as follows:

If to the District at:

Cherokee Metropolitan District
Attn: Amy Lathen, General Manager
6250 Palmer Park Boulevard
Colorado Springs, Colorado 80915
Telephone: (719) 597-5080

If to the Paying Agent at:

BOKF, NA, dba Colorado State Bank and Trust
Attn: Corporate Trust Services
1600 Broadway, 3rd Floor
Denver, Colorado 80202
Telephone: (303) 864-7236

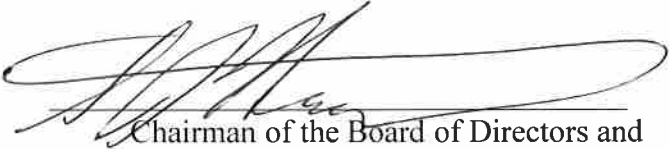
Any of the foregoing Persons may, by notice given hereunder to each of the other Persons, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 13.07 Additional Notices to Rating Agencies. The Paying Agent hereby agrees that if at any time (a) the District shall redeem any portion of the Bonds Outstanding prior to maturity, but excluding redemptions pursuant to Section 4.02 hereof, (b) the District shall provide for the payment of any portion of the Bonds pursuant to Section 13.01 hereof, (c) a successor Paying Agent is appointed hereunder, or (d) any supplement to this Resolution shall become effective or any Person shall waive any provision of this Resolution, then, in each case, the Paying Agent shall give notice to each Rating Agency.

Section 13.08 Business Days. If the date for making any payment or the last date for performance of any act or the exercising of any rights, as provided in this Resolution, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day, with the same force and effect as if done on the nominal date provided in this Resolution, and no interest shall accrue for the period after such nominal date.

ADOPTED AND APPROVED this 18th day of August, 2020.

CHEROKEE METROPOLITAN DISTRICT,
EL PASO COUNTY, COLORADO

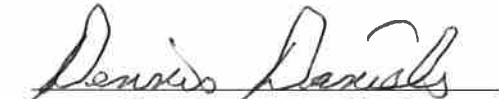


Chairman of the Board of Directors and
President of the District

Steven J. Hasbrouck

(SEAL)

Attest:



Secretary of the District