

RESOLUTION NO. 10-01

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SOUTHSIDE WATER AND SEWER DISTRICT, IDAHO, MAKING FINDINGS AND DECLARATIONS WITH RESPECT TO FINANCING IMPROVEMENTS TO THE DISTRICT'S PUBLIC SEWER SYSTEM FACILITIES; APPROVING AND AUTHORIZING, SUBJECT TO JUDICIAL CONFIRMATION, THE EXECUTION OF A LOAN AGREEMENT BETWEEN THE STATE OF IDAHO, DEPARTMENT OF ENVIRONMENTAL QUALITY, AND THE SOUTHSIDE WATER AND SEWER DISTRICT FOR THE FINANCING OF THE IMPROVEMENTS; AUTHORIZING THE FILING OF A PETITION FOR JUDICIAL CONFIRMATION IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF IDAHO, IN AND FOR BONNER COUNTY; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Southside Water and Sewer District, Bonner County, Idaho (the "District"), is a political subdivision duly organized and operating under the laws of the State of Idaho, and has for many years owned and operated a public sewer system (the "System"); and

WHEREAS, the Board of Directors of the District have determined that certain improvements and extensions to the System (the "Project") are required in order for the System to remain functional and adequate to meet the current and projected future needs of the District and to comply with currently applicable state and federal sewer treatment and discharge requirements and drinking water standards; and

WHEREAS, the estimated cost of the Project (exclusive of grants and other state and federal contributions) is \$850,000.00; and

WHEREAS, the District does not have sufficient funds available in its current fiscal year's budget to finance the cost of the Project, and the Board of Directors have determined that it is necessary to finance the cost thereof from future years' System revenues and other lawfully available funds of the District; and

WHEREAS, the Board of Directors have further determined that it is in the best interests of the District to finance the cost of the Project through a loan from the Water Pollution Control Loan Account of the State of Idaho, Department of Environmental Quality (the "State"), and the District has made application to the State for such loan; and

WHEREAS, the State has tentatively approved such loan application, to be repaid by the District from System revenues over a term of years, not to exceed 20 years, subject to the condition that the District first obtain judicial confirmation of the validity of the proposed loan agreement pursuant to the Idaho Judicial Confirmation Law, the same being Title 7, Chapter 13, Idaho Code; and

WHEREAS, the financing of the costs of the Project in the manner described would create an indebtedness or liability of the District exceeding the current year's revenues; and

WHEREAS, the Board of Directors have determined that the cost of the Project, and the proposed loan obligation to be incurred to finance the same, constitute "ordinary and necessary expenses" of the District authorized by the general laws of the State within the meaning of Article 8, Section 3, of the Idaho Constitution, for which no approving vote of the electors is required; and

WHEREAS, the Board of Directors, on February 18, 2010, held and conducted a public hearing, pursuant to at least fifteen (15) days' published notice in the manner required by Sections 7-1304 and 7-1306, Idaho Code, on the question of whether the Board of Directors should adopt a resolution authorizing the filing of a petition with the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner, seeking judicial confirmation of the proposed loan agreement and the incurring of such indebtedness as an "ordinary and necessary expense" within the meaning of Article 8, Section 3, of the Idaho Constitution, pursuant to the Judicial Confirmation Law; and

WHEREAS, at least fourteen (14) days have elapsed following such public hearing, and the Board of Directors have determined that it is in the best interests of the District and the public health, safety, and welfare for the District to file a petition for judicial confirmation pursuant to the Judicial Confirmation Law upon the question of the authority of the District to incur such indebtedness, to enter into the proposed loan agreement, to issue its promissory note or other evidence thereof, and to pledge its System revenues and other lawfully available funds of the District as security for the payment thereof.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF SOUTHSIDE WATER AND SEWER DISTRICT, IDAHO, as follows:

Section 1: The foregoing recitations are hereby adopted as findings of fact by the Board of Directors.

Section 2: Subject to the entry of a final order of the District Court of the First Judicial District of the State of Idaho, in and for the County of Bonner (the "District Court"), confirming the authority of the District to enter into the transaction, the Loan Offer, Acceptance and Contract with the Idaho Department of Environmental Quality (the "Loan Agreement") is hereby approved, and the Board Chairman or designee is hereby authorized to execute the same for and on behalf of the District. The Board Chairman, or designee, is further authorized to execute, on behalf of the District, a promissory note as evidence of the indebtedness incurred pursuant to the Loan Agreement. The appropriate officials of the District are hereby further authorized to execute such additional documents and certifications as may be required to carry out the intent of this Resolution.

Section 3: The Petition for Judicial Confirmation (the "Petition") is hereby approved, and the Board Chairman, or designee, is authorized to execute the verification of the same.

Section 4: The law firm of Moore Smith Buxton & Turcke, Chartered, Boise, Idaho, as special legal counsel to the District, is hereby authorized to file the Petition on behalf of the District in the District Court, and to take all actions necessary with respect thereto in order to obtain a judgment of the District Court in accordance with the prayer of the Petition.

Section 5: The Board of Directors hereby finds and declares that the proposed Loan Agreement, the indebtedness incurred thereby, and any evidence of indebtedness executed pursuant thereto, for the financing of the Project, constitute an ordinary and necessary expense of the District authorized by the general laws of the State of Idaho within the meaning of Article 8, Section 3, Idaho Constitution, for which no approving vote of the electors of the District is required, for the following reasons:

- A. The proposed expenditure is necessary to protect the health, safety, and welfare of the inhabitants of the Petitioner and to comply with state and federal sewer treatment and discharge standards and applicable drinking water standards.
- B. The proposed expenditure is necessary to fulfill the Petitioner's legal obligations and commitments to provide sewer service within the boundaries of the District.
- C. The proposed expenditure is for the construction of necessary upgrades and improvements to existing District services in order to provide sewer collection and treatment services and protect against groundwater contamination, as opposed to the purpose of undertaking a new endeavor.
- D. The proposed Project is authorized by the general laws of the State.
- E. Petitioner has operated the existing System for many years and has determined that the Project is indispensable to the efficient continued provision of sewer services in a manner to prevent contamination of Petitioner's public drinking water supply.
- F. The cost of the Project is not grossly disproportionate to the Petitioner's overall budget. An immediate expenditure is required to qualify for low interest loan funds.

Section 6: This Resolution shall take effect and be in force immediately upon its passage and approval.

DATED this 19th day of March, 2010.

SOUTHSIDE WATER AND SEWER DISTRICT

By _____
Jim Haynes-Chairman

ATTEST:

District Clerk