



VILLAGE COUNCIL SPECIAL MEETING AGENDA  
SNAKEDANCE CONDOMINIUMS HONDO RESTAURANT  
TAOS SKI VALLEY, NEW MEXICO  
MONDAY, OCTOBER 30, 2017 1:00 P.M.

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1. CALL TO ORDER AND NOTICE OF MEETING
2. ROLL CALL
3. APPROVAL OF THE AGENDA
4. NEW BUSINESS

A. Introduction of Ordinance No. 2018-64 CONCERNING THE MUNICIPAL JOINT WATER AND SEWER SYSTEM OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO; PROVIDING FOR THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER IMPROVEMENT OF SUCH SYSTEM AND FOR THE ISSUANCE OF REVENUE BONDS IN THE AGGREGATE MAXIMUM AMOUNT OF \$8,500,000, CONSISTING OF THE VILLAGE'S JOINT WATER AND SEWER DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000, AND ITS GROSS RECEIPTS TAX DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,000,000, TO PROVIDE TEMPORARY CONSTRUCTION FINANCING FOR THE PROJECT PENDING THE ISSUANCE BY THE VILLAGE OF ITS REVENUE BOND OR BONDS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT (USDA) TO PROVIDE PERMANENT FINANCING FOR SUCH PROJECT; DECLARING THE NECESSITY FOR MAKING AND ISSUING SUCH BONDS WHICH SHALL BE PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM (AS TO THE SYSTEM REVENUE BOND) AND CERTAIN GROSS RECEIPTS TAX RECEIPTS PLEDGED FOR SUCH PURPOSE (AS TO THE GRT REVENUE BOND), RESPECTIVELY, AS PROVIDED HEREIN; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM AND THE COLLECTION AND DISPOSITION OF SUCH GROSS RECEIPTS TAX, RESPECTIVELY; PROVIDING THE FORM, TERMS AND CONDITIONS OF SUCH REVENUE BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; AUTHORIZING THE USE OF A SINGLE REGISTERED BOND FOR EACH SUCH SERIES; PRESCRIBING OTHER DETAILS CONCERNING SUCH SYSTEM REVENUES, GROSS RECEIPTS TAX, BONDS AND SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith

5. ANNOUNCEMENT OF THE DATE, TIME & PLACE OF THE NEXT MEETING OF THE VILLAGE COUNCIL
6. ADJOURNMENT

Village of Taos Ski Valley

Village Council Agenda Item

AGENDA ITEM TITLE: **Introduction of Ordinance 2018-64 CONCERNING THE MUNICIPAL JOINT WATER AND SEWER SYSTEM OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO; PROVIDING FOR THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER IMPROVEMENT OF SUCH SYSTEM AND FOR THE ISSUANCE OF REVENUE BONDS IN THE AGGREGATE MAXIMUM AMOUNT OF \$8,500,000, CONSISTING OF THE VILLAGE'S JOINT WATER AND SEWER DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000, AND ITS GROSS RECEIPTS TAX DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,000,000, TO PROVIDE TEMPORARY CONSTRUCTION FINANCING FOR THE PROJECT PENDING THE ISSUANCE BY THE VILLAGE OF ITS REVENUE BOND OR BONDS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT (USDA) TO PROVIDE PERMANENT FINANCING FOR SUCH PROJECT; DECLARING THE NECESSITY FOR MAKING AND ISSUING SUCH BONDS WHICH SHALL BE PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM (AS TO THE SYSTEM REVENUE BOND) AND CERTAIN GROSS RECEIPTS TAX RECEIPTS PLEDGED FOR SUCH PURPOSE (AS TO THE GRT REVENUE BOND), RESPECTIVELY, AS PROVIDED HEREIN; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM AND THE COLLECTION AND DISPOSITION OF SUCH GROSS RECEIPTS TAX, RESPECTIVELY; PROVIDING THE FORM, TERMS AND CONDITIONS OF SUCH REVENUE BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; AUTHORIZING THE USE OF A SINGLE REGISTERED BOND FOR EACH SUCH SERIES; PRESCRIBING OTHER DETAILS CONCERNING SUCH SYSTEM REVENUES, GROSS RECEIPTS TAX, BONDS AND SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith**

DATE: October 30, 2017

PRESENTED BY: Mark G. Fratrack

STATUS OF AGENDA ITEM: New Business

CAN THIS ITEM BE RESCHEDULED: Not Recommended

BACKGROUND INFORMATION: This Ordinance outlines the mechanism for the Village to obtain temporary construction financing for upgrading the Village's wastewater treatment plant, through the issuance of revenue bonds. This interim financing is a necessary component of obtaining the permanent financing through the USDA Rural Development.

The Village's bond attorney from Sherman & Howard, Mr. Parker Schenken, will be in attendance to explain the bond issuance and to answer questions.

**Recommendation:** As this is the first reading of Ordinance No. 2018-64 for obtaining interim financing through revenue bond issuance, this item is for discussion only.

STATE OF NEW MEXICO                     )  
COUNTY OF TAOS                        ) ss.  
VILLAGE OF TAOS SKI VALLEY         )

The Village Council (the “Council”) of the Village of Taos Ski Valley (the “Village”), in the County of Taos and State of New Mexico, met in open special session in full conformity with law and the ordinances and rules of the Village, at the Hondo Restaurant At Snakedance Condominiums, 110 Sutton Pl, Taos Ski Valley, NM 87525, being the regular meeting place of the Council, at the hour of 2:00 o’clock p.m., on November 14, 2017.

Upon roll call, the following were found to be present, constituting a quorum:

Mayor:                                     [Neal King]  
Council Members:                     [Kathy Bennett]  
  [Christof Brownell]  
  [Chris Stagg]  
  [Tom Wittman]

Absent:                                   \_\_\_\_\_

constituting all the members of the Council.

There were also present:

Village Administrator:               [Mark G. Fratrack]  
Village Attorney:                    [Dennis Romero]  
Village Clerk:                         [Ann M. Woolridge]

Thereupon the following proceedings, among others, were had and taken, to wit:

The Village Clerk announced that the United States of America acting by and through the United States Department of Agriculture, Rural Development, has approved a Letter of Conditions relating to the permanent financing of certain improvements to the Village’s wastewater treatment facilities; and pending construction of such improvements and closing of such permanent financing, related interim bank financing for such improvements through the issuance and placement of the Village’s revenue bonds has been negotiated based on proposals requested and received by the Village. The Mayor announced that the Council at this meeting is to consider the adoption of the bond ordinance awarding the sale of such revenue bonds and authorizing the same.

The Village Clerk also announced that copies of a draft of such proposed ordinance previously were filed with her on October 26, 2017.

Thereupon, there was officially filed with the Village Clerk, the Mayor and each Council Member, a copy of the ordinance in its final form which is in substantially the form filed with the Village Clerk on October 26, 2017. Mayor King thereupon introduced the ordinance, which is as follows:

ORDINANCE NO. 2018-64

CONCERNING THE MUNICIPAL JOINT WATER AND SEWER SYSTEM OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO; PROVIDING FOR THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER IMPROVEMENT OF SUCH SYSTEM AND FOR THE ISSUANCE OF REVENUE BONDS IN THE AGGREGATE MAXIMUM AMOUNT OF \$8,500,000, CONSISTING OF THE VILLAGE'S JOINT WATER AND SEWER DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000, AND ITS GROSS RECEIPTS TAX DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,000,000, TO PROVIDE TEMPORARY CONSTRUCTION FINANCING FOR THE PROJECT PENDING THE ISSUANCE BY THE VILLAGE OF ITS REVENUE BOND OR BONDS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT (USDA) TO PROVIDE PERMANENT FINANCING FOR SUCH PROJECT; DECLARING THE NECESSITY FOR MAKING AND ISSUING SUCH BONDS WHICH SHALL BE PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM (AS TO THE SYSTEM REVENUE BOND) AND CERTAIN GROSS RECEIPTS TAX RECEIPTS PLEDGED FOR SUCH PURPOSE (AS TO THE GRT REVENUE BOND), RESPECTIVELY, AS PROVIDED HEREIN; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM AND THE COLLECTION AND DISPOSITION OF SUCH GROSS RECEIPTS TAX, RESPECTIVELY; PROVIDING THE FORM, TERMS AND CONDITIONS OF SUCH REVENUE BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; AUTHORIZING THE USE OF A SINGLE REGISTERED BOND FOR EACH SUCH SERIES; PRESCRIBING OTHER DETAILS CONCERNING SUCH SYSTEM REVENUES, GROSS RECEIPTS TAX, BONDS AND SYSTEM, INCLUDING BUT NOT LIMITED TO COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HERewith.

Capitalized terms in the following preambles have the same definitions as set forth in Section 1 unless the content provides otherwise.

(1) WHEREAS, the Village of Taos Ski Valley, in the County of Taos and State of New Mexico (herein the "Village"), is a legally and regularly created, established, organized and existing municipal corporation under its territorial charter and the general laws of the State of New Mexico; and

(2) WHEREAS, the Village now owns, operates and maintains a joint public utility constituting a joint water and sanitary sewer system (the “System”); and

(3) WHEREAS, pursuant to Ordinance No. 05-41 of the Village, NMSA Sections 3-31-1 et seq (the “Revenue Bond Act”) and NMSA Sections 74-6A-1 et seq (the “Wastewater Facility Construction Loan Act”), the Village previously entered into a Final Loan Agreement dated as of May 5, 2005, as amended by Amendment No. 1 thereto (together, the “2005 Loan Agreement”) under which the Village issued to the New Mexico Environment Department (“NMED”) its Final Promissory Note dated December 5, 2006, in the original principal amount of \$1,641,757.25, of which there is now outstanding principal in the amount of \$941,320.88 (the “2006 Note”); under the terms of Ordinance No. 05-41, the 2005 Loan Agreement, the New Mexico Gross Receipts and Compensating Tax Act, Sections 7-9-1 et seq, and the Municipal Local Option Gross Receipts Taxes Act (collectively, the “GRT Act”) and the Wastewater Facility Construction Loan Act, the 2006 Note is secured by a pledge of “Net Revenues”, which is defined in Ordinance No. 05-41 as all income and revenues directly or indirectly derived by the Village from the operation of the System, LESS the operation and maintenance expenses of the System, parity obligations and other approved debt(s) herein indicated, approved indirect charges, any amounts expended for capital replacements and repair of System, and the required set asides for debt and replacement reserves and revenues derived from the 0.25% increase in Municipal Capital Outlay Gross Receipts Tax (as authorized by Ordinance No. 04-39 and the GRT Act, the “Capital Outlay GRT”); and

(4) WHEREAS, pursuant to Ordinance No. 2016-54, the Revenue Bond Act and the Wastewater Facility Construction Loan Act, the Village previously entered into an Interim Loan Agreement (Loan Number CWSRF 052) dated as of March 24, 2016 (the “2016 Loan Agreement”) under which the Village issued to NMED its Interim Promissory Note dated March 17, 2016, in the maximum principal amount drawable of \$350,000.00, of which there is now outstanding principal in the amount of \$350,000.00 (the “2016 Note”); under the terms of Ordinance No. 2016-54, the 2016 Loan Agreement, the GRT Act and the Wastewater Facility Construction Loan Act, the 2016 Note is secured by a pledge of:

1. “Net Revenues”, which is defined in Ordinance No. 2016-54 as Gross Revenues (defined as all income and revenues directly or indirectly derived by the Village from the operation and use of the System) LESS the following expenses (capitalized terms being defined in the 2016 Loan Agreement): (1) Operation and Maintenance expenses, (2) Parity Bonds or Parity Obligations, (3) approved indirect charges, (4) any amounts expended for capital replacements of the System, and (5) the required set asides for Debt Service Reserve Requirement and Replacement Reserve Requirement; and

2. The “Municipal Gross Receipts Tax”, which is defined in the 2016 Ordinance as an excise tax equal to one-quarter percent (0.25%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or may be amended and as defined in Ordinance Number 97-1 as an excise tax equal to one-half percent of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross

Receipts and Compensating Tax Act as it now exists or as it may be amended (as authorized by Ordinance 97-1 and the GRT Act, the “Municipal GRT”); and

(5) WHEREAS, the Village, by Ordinance No. 2017-60 passed, approved and adopted on February 14, 2017, and the GRT Act, has imposed a municipal hold harmless gross receipts tax (the “Hold Harmless GRT”) consisting of an excise equal to 0.375% of the gross receipts reported or required to be reported by the person pursuant to the GRT Act for the purpose of general operations of the Village, including securing of debt and revenue bonds, debt service, and funding Enterprise Fund projects; and

(6) WHEREAS, the System is insufficient and inadequate to meet the needs of the Village; and

(7) WHEREAS, the Council hereby determines that there is a need to complete the Project (as defined below) which will provide for the public health, welfare and safety of the Village and its citizens; and

(8) WHEREAS, the United States of America, acting by and through the United States Department of Agriculture, Rural Development (“USDA”), pursuant to a letter of conditions between it and the Village dated as of July 13, 2017 (as the same may be amended, the “USDA Letter of Conditions”), has agreed to provide permanent financing for the Project by acquiring from the Village its revenue bond or bonds in an amount of \$8,300,000 (collectively, the “USDA Bonds”), on the terms described in the USDA Letter of Conditions; and

(9) WHEREAS, pending construction of the Project and satisfaction of the conditions to the issuance of the USDA Bonds and the purchase thereof by USDA as provided in the USDA Letter of Conditions, TIB The Independent BankersBank, N.A. (the “Bank”), pursuant to Bid Form dated August 4, 2017 (as the same may be amended, the “Proposal”) in response to a request for proposals issued by the Village, has agreed to provide temporary construction financing for the Project on the terms described in the Proposal; and

(10) WHEREAS, the Council has determined and does hereby determine and declare that the proposal for temporary construction financing by the Bank constitutes the best proposal for such financing and is to the best advantage of the Village; and

(11) WHEREAS, as security for the temporary construction financing, the Village desires to pledge to the Bank, pursuant to the terms of the Revenue Bond Act: (a) a lien on the Net Revenues of the system securing the System Revenue Bond on an equal and ratable basis with the lien on such Net Revenues in favor of NMED which secures the 2006 Note and the 2016 Note; and (b) a lien on the Hold Harmless GRT securing the GRT Revenue Bond; and

(12) WHEREAS, Section 3-31-6C, NMSA 1978, provides as follows:

“C. Any law which authorizes the pledge of any or all of the pledged revenues to the payment of any revenue bonds issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 or which affects the pledged revenues, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to

impair adversely any such outstanding revenue bonds, unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.”; and

(13) WHEREAS, Section 7-19D-18, NMSA 1978, provides as follows:

“D. Any law that imposes or authorizes the imposition of a municipal hold harmless gross receipts tax or that affects the municipal hold harmless gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal hold harmless gross receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.”; and

(14) WHEREAS, the Council hereby determines that the Project being acquired with the proceeds of the Bonds is for a governmental purpose and is not a project which would cause the Bonds, as and to the extent issued on a tax-exempt basis, to be “private activity bonds” as defined by the Internal Revenue Code of 1986, as amended (the “Code”), and the Council hereby further determines that neither the Village nor any subordinate entity thereof reasonably anticipates issuing more than \$10,000,000 face amount of bonds or any other similar “qualified tax exempt obligation” (as defined in §265(b)(3)(B) of the Code) during the calendar years in which the Bonds are expected to be issued (presently expected to be 2017); and

(15) WHEREAS, the Purchasers have offered to purchase the Bonds in accordance with the Proposal and the purchase price and other details of the Bonds will be established in the Sale Certificate pursuant to this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO:

**Section 1. Definitions.** The terms in this section defined for all purposes of this Ordinance and of any ordinance amendatory hereof or supplemental hereto, or relating hereto, and of any instrument or document appertaining hereto, except where the context by clear implication herein otherwise requires, shall have meanings herein specified:

“Bank” means TIB The Independent Bankers Bank, N.A.

“Bond Fund” means the Bond Fund maintained within the Income Fund and referred to in Section 21B hereof.

“Bonds” means, collectively, the System Revenue Bond and the GRT Revenue Bond.

“Construction Loan Disbursement Agreement” means the agreement or agreements between the Bank and the Village governing the advancement and disbursement of proceeds of the Bonds, as authorized under Section 40 of this Ordinance.



“Consulting Engineer” means any registered or licensed professional engineer or firm of such engineers, entitled to practice and practicing as such under the laws of the State of New Mexico, retained and compensated by the Village, but not in the regular employ of the Village. The written determination by the Mayor or Village Administrator or the authorized designee of either, that an engineer or firm of engineers meets the foregoing qualifications of the preceding sentence shall be conclusive for purposes of any provision of this Ordinance. As to construction drawings and specifications prepared for the Project by Village employees working on force account or otherwise under the supervision of the Village Engineer, this term may include the Village Engineer.

“Council” means the Village Council of the Village.

“Finance Director” means the person serving as Treasurer and Finance Director of the Village.

“Fiscal Year” for the purposes of this Ordinance means the twelve months commencing on the first day of July of any calendar year and ending on the last day of June of the next calendar year; but it may mean any other 12-month period which any appropriate authority hereafter may establish for the System.

“GRT Revenue Bond” means the Gross Receipts Tax Revenue Bond (Interim Bank Bond), authorized to be issued to the Bank as provided in Section 5 of this Ordinance.

“Herein,” “hereby,” “hereunder,” “hereof,” “hereinbefore” and “hereafter” refer to this ordinance and not solely to the particular portion thereof in which such word is used.

“Holder” means the registered owner(s) of the Bonds as they appear on the registration records kept by the Village.

“Income Fund” means the Income Fund referred to in Section 20 of this Ordinance.

“Independent Accountant” means any registered or certified public accountant or firm of such accountants duly licensed to practice and practicing as such under the laws of the State of New Mexico, appointed and paid by the Village, who (1) is, in fact, independent and not under the domination of the Village, (2) does not have any substantial interest, direct or indirect, with the Village, and (3) is not connected with the Village as an officer or employee of the Village, but who may be regularly retained to make annual or similar audits of the books or records of the Village; and Independent Accountant also means the State Auditor of the State of New Mexico.

“Insured Bank” means a bank qualified to accept public deposits under state law which is a member of the Federal Deposit Insurance Corporation.

“Net Revenues” means the “revenues” (defined below) after deducting “operation and maintenance expenses” (defined below).

“operation and maintenance expenses” (or a phrase of similar import) means all reasonable and necessary current expenses of the Village, paid or accrued, of operating, maintaining and repairing the System, and shall include, without limiting the generality of the foregoing, legal and overhead expense of the various Village departments directly related and reasonably allocable to the administration of the System, insurance premiums, the reasonable charges of depositary banks and paying agents, contractual services, professional services required by this Ordinance, salaries and administrative expenses, labor, the cost of materials and supplies used for current operation, but shall not include any allowance for depreciation, liabilities incurred by the Village as the result of its negligence in the operation of the System, extensions, enlargements or betterments, or any charges for the accumulation of reserves for capital replacements.

“Operation and Maintenance Fund” means the Operation and Maintenance Fund referred to in Section 21A of this Ordinance.

“Ordinance” means this Ordinance No. 2018-64 of the Village authorizing the issuance of the Bonds, as adopted on November 14, 2017.

“Outstanding Bond Funds” means any fund or funds created by the Village from which revenues are held and applied to the 2006 Note and the 2016 Note.

“Parity GRT Lien Bonds” means the any other bonds, warrants, notes, securities, leases or other contracts evidencing borrowings and payable from receipts from the Hold Harmless GRT issued with a lien on the receipts from the Hold Harmless GRT on a parity with the lien thereon securing the GRT Revenue Bond.

“Parity System Lien Bonds” means the 2006 Note, the 2016 Note and any other bonds, warrants, notes, securities, leases or other contracts evidencing borrowings and payable from revenues of the System issued with a lien on the Net Revenues on a parity with the lien thereon securing the 2006 Note and the 2016 Note and the System Revenue Bond.

“Paying Agent” means the office of the Finance Director of the Village, or any successor thereto.

“Project” means extending, enlarging, bettering, repairing or otherwise improving the System (as described in Section 5A of this Ordinance) and all costs incidental to the foregoing and to the issuance of the Bonds.

“Purchaser” means the Bank, as purchaser of the Bonds.

“Registrar” means the office of the Finance Director of the Village, or any successor thereto.

“Reserve Fund” means the Reserve Fund referred to in Section 21C hereof and established under Section 23 hereof.

“Reserve Requirement” means an amount equal to ten percent (10%) of the stated principal amount of the Bonds, or, if less, the maximum amount which may be retained without

yield restriction in a reasonably required reserve or replacement fund under applicable federal tax laws, as may be determined in the Sale Certificate.

“revenues,” “gross revenues,” “income” or “gross income” means all income and revenues derived by the Village from the operation of the System, or any part thereof, whether resulting from extensions, enlargements or betterments to the System, or otherwise, and includes all revenues received by the Village or any municipal corporation succeeding to the rights of the Village from the System and from the sale and use of water, water service and facilities, sanitary sewer service and facilities or any combination thereof to the inhabitants of what is now the Village (including all territorial annexations which may be made while any of the Bonds are outstanding), or from the sale and use of water, water service and facilities, sanitary sewer service and sewer facilities or any combination thereof, by means of the System owned and operated by the Village as the same may at any time exist to serve customers outside the Village limits as well as customers within the Village limits, and also means all income derived from the investment of any money in any of the funds established herein or contained herein even though such investment income is to be credited to the particular fund from which such investment is made, as further provided by Section 27 hereof.

“Sale Certificate” means one or more certificates executed by the Mayor or Village Administrator dated on or before the date of delivery of the Bonds, setting forth the following final terms of the Bonds: (i) the interest and principal payment dates; (ii) the principal amounts, denominations and maturity amortization; (iii) the sale prices; (iv) the interest rate or rates; (v) the interest payment periods; (vi) the redemption and tender provisions; (vii) the creation of any capitalized interest fund, including the size and funding of such fund(s); (viii) the amount of underwriting discount, if any; and (ix) the final terms of agreements, if any, with agents or service providers required for the purchase, sale, issuance and delivery of the Bonds, all subject to the parameters and conditions contained in this Ordinance.

“Supplemental Act” means the Supplemental Public Securities Act, Section 6-14-8 et seq., NMSA 1978, as amended by Senate Bill 43 adopted by the New Mexico Legislature during the 2017 Regular Legislative Session.

“System” means the municipally owned joint public utility designated as the Village’s water system and sanitary sewer system consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Village through purchase, construction or otherwise, and used in connection with said water system and sanitary sewer system of the Village and in anyway appertaining thereto, whether situated within or without the limits of the Village (for the avoidance of doubt, “System” includes the Project).

“System Revenue Bond” means the Joint Sewer and Water System Draw Down Revenue Bond (Interim Bank Bond) authorized to be issued to the Bank as provided in Section 5 of this Ordinance.

“USDA” means The United States of America Acting through the United States Department of Agriculture.

“USDA Bonds” means the revenue bond or bonds to be issued by the Village to USDA (which may include the Bonds, if and to the extent the same may be amended and assigned to USDA) upon completion of the Project and satisfaction of the conditions set out in the Letter of Conditions.

“Village” means the municipal corporate body corporate and politic known as the Village of Taos Ski Valley, Taos County, New Mexico.

Definitions include both singular and plural. Pronouns include both singular and plural and cover all genders. Definitions of other terms appear throughout this Ordinance.

**Section 2. Ratification.** All action heretofore taken (not inconsistent with the express provisions of this Ordinance) by the Council and officers of the Village directed toward the Project, the approval of the Letter of Conditions, the Proposal and the authorization, sale and issuance of the Bonds as herein authorized be, and the same hereby is ratified, approved and confirmed.

**Section 3. Public Utility.** The municipal water facilities or system and the municipal sanitary sewer facilities or system shall constitute a joint public utility and shall be operated and maintained as such System.

**Section 4. Acceptance of Purchase Proposal for Bonds; Approval of Letter of Conditions.** The Proposal submitted by the Bank for the purchase of the Bonds, which was received by the Village as authorized by State law, be, and the same hereby is, accepted. The terms of the Letter of Conditions for the purchase by USDA of the USDA Bonds, which was received by the Village as authorized by State law, be, and the same hereby is, accepted.

**Section 5. Authorization of Project and Bonds.**

A. Authorization of Project. Subject to approval of final plans and specifications for the Project by the Council, the Project is hereby authorized at a total cost of not exceeding \$8,500,000 and the necessity thereof is hereby so declared. The Village has authorized (and hereby authorizes) the issuance of the Bonds to defray a part of such total cost. The Project, briefly and generally described, shall consist of the improvement, extension and betterment of the System, consisting of the replacement and upgrade of the Village’s existing wastewater treatment facility with a Membrane Bio Reactor System, and all other equipment, appurtenances and land necessary or convenient thereof or (including all necessary sites, rights-of-way and easements), all as more particularly described in the preliminary engineering report, plans and specifications which have heretofore been prepared and filed by the Consulting Engineer, which are available for public inspection in the office of the Village Clerk.

B. Authorization of Bonds. For the purpose of protecting the public health, conserving the property and advancing the general welfare of the citizens of the Village, and for the purpose of defraying the cost of the Project, it is hereby declared that the interest or necessity of the Village and the inhabitants thereof demand the issuance of the Bonds by the Village, pending satisfaction of the conditions to the issuance of the USDA Bonds and the purchase thereof by USDA as provided in the Letter of Conditions, said Bonds to consist of its fully registered revenue bonds without coupons to be designated:

1. “Village of Taos Ski Valley Joint Sewer and Water System Draw Down Revenue Bond (Interim Bank Bond)” in the aggregate principal amount not to exceed \$3,500,000, to be payable and collectible, both as to principal and interest solely from the Net Revenues (and proceeds of the USDA Bonds upon their issuance) and constituting a special obligation of the Village; and

2. “Village of Taos Ski Valley Gross Receipts Revenue Bond (Interim Bank Bond)” in the aggregate principal amount not to exceed \$5,000,000, to be payable and collectible, both as to principal and interest solely from receipts from the Hold Harmless GRT (and proceeds of the USDA Bonds upon their issuance) and constituting a special obligation of the Village.

**Section 6. Bond Details.** Each of the Bonds shall be issued in fully registered form, i.e., registered as to both principal and interest and the regulations of the Secretary of the Treasury thereunder, as follows:

A. System Revenue Bond. The System Revenue Bond shall be dated initially as of the date of delivery thereof to Bank, and shall be issued as a single bond in the maximum principal amount of \$3,500,000. The Village’s aggregate indebtedness as represented by the System Revenue Bond shall be \$3,500,000 or such lesser amount as shall represent the aggregate principal amount advanced by the Bank to the Village thereunder, as shown on the principal advance panel appended to the System Revenue Bond, together with interest on the principal amounts outstanding from time to time as provided in this Section 6. The System Revenue Bond shall bear interest from the date of delivery at the rate not to exceed 5.00% per annum on the unpaid balance of the total principal advanced from the date or dates of each advance until the principal thereof is paid in full. Payment of interest on the System Revenue Bond shall be made semiannually on April 1 and October 1 of each year commencing on the first such date following the date of delivery thereof (each such day is referred to herein as a “Payment Date”). All outstanding principal and accrued and unpaid interest on the System Revenue Bond shall be due and payable in full on the earlier to occur of (a) the date of issuance of the USDA Bond, or (b) the date which is thirty-six (36) months following the date of delivery of the Bonds (as such date may be extended with the written consent of the Bank) (such earlier date, the “Maturity Date”). Except as otherwise provided herein, every payment on the System Revenue Bond shall be applied first to interest computed to the date of payment and then to principal.

B. GRT Revenue Bond. The GRT Revenue Bond shall be dated initially as of the date of delivery thereof to Bank, and shall be issued as a single bond in the maximum principal amount of \$5,000,000. The Village’s aggregate indebtedness as represented by the GRT Revenue Bond shall be \$5,000,000 or such lesser amount as shall represent the aggregate principal amount advanced by the Bank to the Village thereunder, as shown on the principal advance panel appended to the GRT Revenue Bond, together with interest on the principal amounts outstanding from time to time as provided in this Section 6. The GRT Revenue Bond shall bear interest from the date of delivery at the rate not to exceed 5.00% per annum on the unpaid balance of the total principal advanced from the date or dates of each advance until the principal thereof is paid in full. Payment of interest on the GRT Revenue Bond shall be made on each Payment Date. All outstanding principal and accrued and unpaid interest on the GRT Revenue Bond shall be due and payable in full on the Maturity Date. Except as otherwise

provided herein, every payment on the GRT Revenue Bond shall be applied first to interest computed to the date of payment and then to principal.

C. Establishment of Terms. The exact principal amounts of each of the Bonds, the interest rates and sale prices of the Bonds, and other terms described in Section 40 of this Ordinance will be established in the Sale Certificate, but in no event shall the net effective interest rate on the Bonds exceed the lesser of (i) the maximum rate of interest applicable to the Bonds as provided in Section 6.A or 6.B above, or (ii) twelve percent (12%) per annum as required by Section 6-14-3, NMSA 1978. The form, terms, and provisions of the Bonds, as set forth or referred to in Section 5 of this Ordinance, are hereby approved with only such changes therein as are not inconsistent with this Ordinance and the Sale Certificate

#### **Section 7. Payment of Bonds; Paying Agent and Registrar.**

A. The principal of any Bond shall be payable to the registered owner thereof as shown in the registration records kept by the Registrar, upon maturity and presentation and surrender thereof at the office of the Paying Agent. If, upon presentation of any Bond at or after its maturity, payment is not made as herein provided, interest thereon shall continue at the same rate per annum until the principal thereof is paid in full. Payment of interest on any Bond shall be made to the registered owner thereof by check or draft mailed by the Paying Agent on or before each Payment Date (or, if such Payment Date is not a business day, on or before the next succeeding business day), to the registered owner thereof at his address as shown on the registration records kept by the Registrar at the close of business on the fifteenth day (whether or not a business day) of the calendar month preceding the Payment Date (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 registered owner thereof at the close of business on the Record Date and shall be payable to the person who is the registered owner thereof at the close of business on a special record date for the payment of any defaulted interest fixed by the Registrar whenever moneys become available for payment of the defaulted interest (each such date, a "Special Record Date"), and notice of the Special Record Date shall be given to the registered owners of the Bonds not less than ten days prior to the Special Record Date by first-class mail to each such registered owner as shown on the registration records on a date selected by the Registrar, 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 by such alternative means as may be mutually agreed to between the owner of any Bond and the Paying Agent. All such payments shall be made in lawful money of the United States of America without deduction for the services of the Paying Agent or the Registrar.

B. If any installment is not paid when due, then in addition to installments thereafter becoming due, the Village shall pay interest on the unpaid balance of the total principal amount from the due date of the delinquent installment to the date of payment of the delinquent installment, provided, that interest accruing by reason of any such delinquency shall not include any interest applicable to such delinquency period in any installment subsequently paid.

C. So long as the Bank is the registered owner of the Bonds, payment of installments of principal and interest shall be made at an office designated in writing by the

Bank, or at such other address as the Bank may designate in writing. During the time any registered assign is the registered owner of the Bonds, payment shall be made at the address shown on the registration book kept by the Registrar. The Bond must be registered by any registered owner, and may be assigned in the manner and with the effect set forth in the provisions for registration contained in the form of the Bonds hereinafter set forth, and as herein further provided. The principal and interest of the Bonds shall be payable only to, or upon the order of, the registered owner or his legal representative. Upon issuance, the Bonds shall be registered in the name of the Bank.

#### **Section 8. Prior Redemption.**

A. The Village hereby reserves the right, at its option, to prepay the principal amount of the Bonds outstanding, in whole or in part, at any time. Prepayments may be made on any date and shall be made in the manner provided herein for making regularly scheduled installments. No prepayment of an installment shall extend or postpone the due date of any subsequent installment. Any prepayments shall be in the amount of principal being prepaid, together with accrued interest thereon to the date of prepayment, and shall be made without penalty or without additional interest charges.

B. Notice of prepayment shall be mailed at least ten days prior to the redemption date to each person whose name and address appears on the registration books. The Holder of any Bond may waive any requirement of notice. The notice shall identify the bonds to be redeemed, by name and series, specify the redemption date, and state that on such date the principal amount thereof and accrued interest to the redemption date will become due and payable, and thereafter interest shall cease to accrue. After such notice and presentation of said Bonds, the Bonds called for redemption will be paid.

**Section 9. Negotiability.** Subject to the provisions specifically made or necessarily implied herein, the Bonds shall be fully negotiable, and shall have all the qualities of negotiable paper, and the registered owner or owners thereof shall possess all rights enjoyed by the holders of negotiable instruments under the provisions of the Uniform Commercial Code.

#### **Section 10. Execution.**

A. Filing Manual Signatures. If necessary in connection with the use of any facsimile signatures, prior to the execution and authentication of any Bond pursuant to Sections 6-9-1 through 6-9-6, both inclusive, NMSA 1978, the Mayor, Village Clerk and Village Treasurer (Finance Director) may each forthwith file with the Secretary of State of New Mexico, his or her manual signature certified by him or her under oath; provided, that such filing shall not be necessary for any officer where any previous such filing may have legal application to the Bonds or in the event the Bonds are manually executed.

B. Method of Execution. Each Bond shall be signed and executed by the manual or facsimile signature of the Mayor under the manual or facsimile of the seal of the Village, which shall be printed, stamped, engraved or otherwise placed thereon; each Bond shall be executed and attested with the manual or facsimile signature of the Village Clerk and countersigned with the manual or facsimile signature of the Village Treasurer (Finance Director);

and each Bond shall be authenticated by the manual signature by an authorized officer of the Registrar as hereafter provided. The Bonds bearing the facsimile signatures of the officers in office at the time of the authorization thereof shall be the valid and binding obligations of the Village (subject to the requirement of authentication by the Registrar as hereinafter provided) notwithstanding that before the delivery thereof and payment therefor, or before the issuance thereof upon transfer or exchange, any or all of the persons whose facsimile signatures appear thereon shall have ceased to fill their respective offices. The Mayor, Village Clerk and Village Treasurer (Finance Director) of the Village shall, by the execution of a signature certificate pertaining to the Bonds, adopt as and for their respective signatures the facsimiles thereof appearing on the Bonds; and, at the time of the execution of said signature certificate, said Mayor, Village Clerk and Village Treasurer (Finance Director) may each adopt as and for his or her facsimile signature the facsimile signature of his or her predecessor in office in the event that such facsimile signature appears upon any of the Bonds.

C. Certificate of Authentication. No Bond shall be valid or obligatory for any purpose unless the certificate of authentication, substantially in the form provided in the forms of the Bonds attached hereto, has been duly executed by the Registrar. The Registrar's certificate of authentication shall be deemed to have been duly executed by it if manually signed by the Registrar (or as applicable an authorized officer of the Registrar), but it shall not be necessary that the same officer sign the certificate of authentication on all of the Bonds issued hereunder.

#### **Section 11. Registration, Transfer and Exchange.**

A. Registration Books - Transfer and Exchange Authentication. Books for the registration and transfer of the Bonds shall be kept by the Registrar. Upon the surrender for transfer of any Bonds at the Registrar, duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing, the Registrar shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds of a like series, aggregate principal amount and of the same maturity, bearing a number or numbers not contemporaneously outstanding. Bonds may be exchanged at the Registrar for an equal aggregate principal amount of Bonds of the same series, maturity of other authorized denominations. The Registrar shall authenticate and deliver a Bond or Bonds which the registered owner making the exchange is entitled to receive, bearing a number or numbers not contemporaneously outstanding. Exchanges and transfers of Bonds as herein provided shall be without charge to the owner or any transferee, but the Registrar may require the payment by the owner of any Bond requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

B. Transfer Restrictions. Notwithstanding any provision in this Ordinance or in the Bonds to the contrary, no Holder may transfer any Bond in whole or in part or transfer any interest therein without the prior written consent of the Village, and in the case any such consent is given, such transfer shall otherwise be in compliance with all applicable federal and state securities laws (any such transfer to be effected at the sole risk and expense of the transferor). In addition, the Bonds must at all times be held by the same Holder (i.e., the System Revenue Bond and the GRT Revenue Bond may not be held by separate Holders).



C. Times When Transfer or Exchange Not Required. The Registrar shall not be required to transfer or exchange all or a portion of any Bond subject to prepayment at any time following the mailing of notice to the registered owners calling any Bonds for prepayment pursuant to Section 8B hereof.

D. Payment - Registered Owners. The person in whose name any Bond shall be registered, on the registration books kept by the Registrar, shall be deemed and regarded as the absolute owner thereof for the purpose of making payment thereof and for all other purposes except as may otherwise be provided with respect to payment of interest as is provided in Section 7 hereof; and payment of or on account of either principal or interest on any Bond shall be made only to or upon the written order of the registered owner thereof or his 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.

E. Replacement Bonds. If any Bond shall be lost, stolen, destroyed or mutilated, the Registrar shall, upon receipt of such evidence, information or indemnity relating thereto as it may reasonably require, authenticate and deliver a replacement Bond or Bonds of a like aggregate principal amount and of the same series, maturity, bearing a number or numbers not contemporaneously outstanding. If such lost, stolen, destroyed or mutilated Bond shall have matured, the Registrar may direct the Paying Agent to pay such Bond in lieu of replacement.

F. Delivery of Bond Certificates to Registrar. The officers of the Village are authorized to deliver to the Registrar fully executed but unauthenticated Bonds in such quantities as may be convenient to be held in custody by the Registrar pending use as herein provided.

G. Cancellation of Bonds. Whenever any Bond shall be surrendered to the Paying Agent upon payment thereof, or to the Registrar for transfer, exchange or replacement as provided herein, such Bond shall be promptly cancelled by the Paying Agent or Registrar, and counterparts of a certificate of such cancellation shall be furnished by the Paying Agent or Registrar to the Village.

**Section 12. Successor Registrar or Paying Agent.** If the Registrar or Paying Agent initially appointed hereunder shall resign, or if the Village shall reasonably determine that said Registrar or Paying Agent has become incapable of fulfilling its duties hereunder, the Village may, upon notice mailed to each registered owner of Bonds at the address last shown on the registration books, appoint a successor Registrar or Paying Agent, or both. Every such successor Registrar or Paying Agent shall be a bank or trust company located in and in good standing in the United States and having a shareholders equity (e.g., capital stock, surplus and undivided profits), however denominated, not less than \$10,000,000. It shall not be required that the same institution serve as both Registrar and Paying Agent hereunder, but the Village shall have the right to have the same institution serve as both Registrar and Paying Agent hereunder.

### **Section 13. Special Obligations.**

A. System Revenue Bond. The System Revenue Bond, together with the interest accruing thereon, shall be payable and collectible solely out of the Net Revenues, which

are irrevocably so pledged on an equal and ratable basis for the System Revenue Bond and for the Parity System Lien Bonds. The registered owner or owners of the System Revenue Bond may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged. The System Revenue Bond shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation; nor shall it be considered or held to be a general obligation of the Village. The System Revenue Bond shall recite on its face that it is payable and collectible solely from the Net Revenues, the income from which is so pledged, and that the registered owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the System Revenue Bond.

B. GRT Revenue Bond. The GRT Revenue Bond, together with the interest accruing thereon, shall be payable and collectible solely out of the revenues from the Hold Harmless GRT, which are irrevocably so pledged. The registered owner or owners of the GRT Revenue Bond may not look to any general or other fund for the payment of the principal of or interest on such obligations, except the designated special funds pledged. The GRT Revenue Bond shall not constitute an indebtedness or a debt within the meaning of any constitutional or statutory provision or limitation; nor shall it be considered or held to be a general obligation of the Village. The GRT Revenue Bond shall recite on its face that it is payable and collectible solely from the revenues of the Hold Harmless GRT, the income from which is so pledged, and that the registered owner thereof may not look to any general or other fund for the payment of principal and interest on, and prior redemption premium due in connection with, the GRT Revenue Bond.

**Section 14. Use of Single Bond.** The Bank has requested, and the Village has agreed, that the obligations of the Village hereunder shall be represented in the form of a single registered revenue bond for each series. The Bonds are to be in such form as to permit the Bank to make advances on the total principal sum thereof (up to an aggregate principal amount of \$8,500,000) to the Village during the period of construction.

**Section 15. Forms of Single Bond.** Subject to this provision of this Ordinance, the Bonds, the registration panels, the principal advance panels, and the forms of assignment therefor, shall be in substantially forms attached hereto as Exhibit "A" (with respect to the System Revenue Bond) and Exhibit "B" (with respect to the GRT Revenue Bond), with such changes, modifications, and completions as the Village Administrator shall approve.

**Section 16. Designation of Bonds as Tax-Exempt Obligation.** For the purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended, the Village hereby designates the Bonds as its qualified tax-exempt obligations.

**Section 17. Period of Improvement Project's Usefulness.** It is hereby determined and recited that the period of usefulness of the facilities to be acquired with the proceeds of the Bonds (i.e. the Project) is not less than 40 years from the date of the Bonds.

**Section 18. Sale and Delivery of Bonds; Initial Registration.** The Village hereby agrees to sell the Bonds to the Bank on the terms set forth herein. The Registrar shall initially register the Bonds in the name of the Bank. When the Bonds have been duly executed,

authenticated, registered and sold, the Village Treasurer (Finance Director) shall deliver them to the Bank on receipt of the agreed purchase price (as initially advanced and as advanced from time to time in accordance with the terms of the Construction Loan Disbursement Agreement) unless otherwise provided in writing by the Bank.

**Section 19. Disposition of Bond Proceeds.**

A. Construction Account. Proceeds of the Bonds as advanced to the Village from time to time in accordance with the Construction Loan Disbursement Agreement shall be promptly deposited in a designated account in an Insured Bank selected by the Village (which may be the Bank). Amounts in the account exceeding the applicable federal deposit insurance coverage shall be secured by the depository bank in advance in accordance with applicable state laws and U.S. Treasury rules and regulations governing the deposit of government moneys. Moneys in the account shall be used solely for the Project and shall be withdrawn only upon warrants or checks drawn and signed by the Mayor (or other duly authorized officer(s) of the Village) in accordance with the terms of the Construction Loan Disbursement Agreement. Warrants or checks shall not be issued until the Village has received engineering approval that such sum is due and owing and any other requisite approvals of the Council (as applicable) shall have been obtained. The Village's share of any liquidated damages and other moneys paid by defaulting contractors or their sureties shall be deposited in said account to assure completion of the Project. After the engineer has certified that work is completed and that all expenses have been paid, the depository bank shall transfer all remaining money in the Construction Fund, if any, on a pro rata basis to the Bond Fund and Hold Harmless GRT Fund, respectively, to be used to the extent possible for redeeming Bonds prior to maturity as provided by Section 8 hereof.

B. Purchaser Not Responsible. The validity of the Bonds is not dependent on nor affected by the validity or regularity of any proceedings related to the completion of the Project. The Bank, and any subsequent Holder of any Bonds, shall in no manner be responsible for the application or disposal by the Village or by any officer or any employee or other agent of the Village of the moneys derived from the sale of the Bonds or of any other moneys herein designated.

C. Use of Proceeds. Except as herein otherwise specifically provided, the proceeds derived from the sale of the Bonds shall be used and paid solely for the purpose of the Project.

**Section 20. Income Fund and Hold Harmless GRT Fund.**

A. Income Fund. So long as any of the System Revenue Bond or any Parity System Lien Bonds shall be outstanding, either as to principal or interest, or both, the revenues of the System shall continue to be set aside and deposited monthly into the separate account known as the "Income Fund" (the establishment of which is hereby affirmed and ratified).

B. Hold Harmless GRT Fund. So long as the GRT Revenue Bond or any Parity GRT Lien Bonds shall be outstanding, either as to principal or interest or both, receipts from the Hold Harmless GRT received from time to time shall continue to be set aside and

deposited monthly into the separate account known as the “Hold Harmless GRT Fund” which is hereby established.

**Section 21. Administration of Income Fund.** So long as any of the System Revenue Bond or any Parity System Lien Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made on the first day of each month from the Income Fund:

A. Operation and Maintenance Fund. First, as a first charge thereon, there shall continue to be set aside from moneys in the Income Fund from time to time in, and credited to an account known as the “Operation and Maintenance Fund” (which may consist of several separate funds and/or accounts consistent with Village policies), amounts sufficient to pay the operation and maintenance expenses as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for operation and maintenance expenses, shall be transferred back to the Income Fund and used for the purposes thereof as herein provided.

B. Bond Fund. Second, subject to the aforesaid provisions, from any moneys remaining in the Income Fund, i.e., from the Net Revenues, there shall be credited pro rata to the System Revenue Bond sub-account in the Bond Fund and any other fund funds for any additional Parity System Lien Bonds, amounts necessary, together with any moneys therein and available therefor, to pay the installments of principal and interest on the System Revenue Bond and any other Parity System Lien Bonds on the first Payment Date and on each Payment Date thereafter. Nothing herein shall prevent the Village, in its discretion, from making the foregoing deposits from other legally available funds. If prior to any 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 this paragraph B may be appropriately reduced; but the required monthly amounts again shall be so credited to such account commencing on the next Payment Date. The moneys in the Bond Fund shall be used only to pay the principal of and interest on the System Revenue Bond and any Parity System Lien Bonds as the same become due.

C. Reserve Fund. Third, subject to paragraphs A and B of this section, the Village shall make deposits into the Reserve Fund, as and to the extent required under Section 23 of this Ordinance.

**Section 22. Administration of Hold Harmless GRT Fund.**

A. Hold Harmless GRT Fund. So long as any of the GRT Revenue Bond or any Parity GRT Lien Bonds shall be outstanding, either as to principal or interest or both, the following payments shall be made on the first day of each month from the Hold Harmless GRT Fund. From moneys on hand in the Hold Harmless GRT Fund, i.e., from collection of the Hold Harmless GRT, the Village shall pay the installments of principal and interest on the GRT Revenue Bond on the first Payment Date and on each Payment Date thereafter and to pay any Parity GRT Lien Bonds in accordance with their respective terms. Nothing herein shall prevent the Village, in its discretion, from making the foregoing deposits from other legally available funds. If prior to any Payment Date, there has been accumulated in the Hold Harmless GRT

Fund the entire amount necessary to pay the next maturing installment of interest or principal, or both, the payment required in this Section 22 may be appropriately reduced; but the required monthly amounts again shall be so credited to such account commencing on the next Payment Date. The moneys in the Hold Harmless GRT Fund shall be used only to pay the principal of and interest on the GRT Revenue Bond and any Parity GRT Lien Bonds as the same become due.

B. Reserve Fund. Third, subject to paragraph A of this section, the Village shall make deposits into the Reserve Fund, as and to the extent required under Section 23 of this Ordinance.

**Section 23. Reserve Fund.** The Village shall on each Payment Date deposit into the Reserve Fund, which is hereby created: (1) all excess Net Revenues available after making required payments on and deposits related to the System Revenue Bond and the other Parity System Lien Bonds ("Excess Net Revenues"), and (2) all excess receipts from the Hold Harmless GRT after making required payments on and deposits related to the GRT Revenue Bond and other Parity GRT Lien Bonds, if any, as described in Section 30 ("Excess GRT Receipts"), until the accumulated amount on deposit in the Reserve Fund is equal to the Reserve Requirement. The moneys in the Reserve Fund shall be maintained as a continuing reserve to be used to make payments of principal and interest on the Bonds in the event that the Net Revenues or Hold Harmless GRT, respectively, to prevent a default. As long as the Reserve Fund is funded to the Reserve Requirement, Excess Net Revenues and Excess GRT Receipts may be applied in any other manner permitted by this Ordinance.

**Section 24. Termination of Deposits.** Payment need not be made into the funds discussed in Section 21 and 22 if the total amount in both funds (together with funds on hand in the Reserve Fund) at least equals the principal and interest requirements of the then outstanding Bonds to maturity. In that case such an amount equal to such principal and interest requirements shall be set aside for that purpose and all other moneys may be used in any lawful manner.

**Section 25. Defraying Delinquencies in Bond Fund and in Reserve Fund.** If, for any reason, the Village shall fail to pay into the Bond Fund or the Hold Harmless GRT Fund, as applicable, the full stipulated amount from Net Revenues or the Hold Harmless GRT, as applicable, then the difference between that paid and the amount stipulated shall be paid into the Bond Fund or the Hold Harmless GRT Fund, as applicable, from the Reserve Fund. Money so used shall be replaced in the Reserve Fund from the first revenues thereafter received not required to be otherwise applied by this section. If the proceedings authorizing other Parity System Lien Bonds require the replacement of moneys in a reserve fund, then money shall be replaced in each such reserve fund from available Net Revenues on a pro rata basis with the System Revenue Bond and any other Parity System Lien Bonds. If the proceedings authorizing other Parity GRT Lien Bonds require the replacement of moneys in a reserve fund, then money shall be replaced in each such reserve fund from available receipts from the Hold Harmless GRT on a pro rata basis with the GRT Revenue Bond and any other Parity GRT Lien Bonds. If, for any reason, the Village shall fail to pay into the Reserve Fund the full stipulated amount, the difference between the amount paid and the amount stipulated shall in like manner be paid

therein from the first revenues thereafter received not required to be otherwise applied by this section.

**Section 26. Use of Surplus Revenues.**

A. Net Revenues. After making the above payments, the remaining Net Revenues shall be applied for any of the following purposes: the additional improvement, extension and betterment of the System; the payment of debt service on any general obligation bonds incurred in the acquisition, construction and improvement of the System; the purchase in the open market or prior redemption of any bonds payable from Net Revenues at the best reasonable price obtainable; and any other lawful purpose.

B. Hold Harmless GRT. After making the above payments, the remaining Hold Harmless GRT may be applied for any purpose permitted by Ordinance No. 2017-60.

**Section 27. General Administration of Funds.** The funds and accounts hereof shall be administered as follows:

A. Places and Times of Deposits. The above accounts and funds shall be separately maintained and deposited in one or more bank accounts in an Insured Bank or Insured Banks. Each account shall be continuously secured to the extent required by law and shall be irrevocable and not withdrawable by anyone for any other purpose. Deposits shall be made into (or allocated to) the proper account on or before the first day of each month, except when the first day shall be a Sunday or legal holiday, then payment shall be made on the preceding secular day. At least 5 days prior to any Payment Date, moneys sufficient to pay interest and principal then due shall be available to the Paying Agent (or, if the Paying Agent is other than the Finance Director, shall be deposited with the Paying Agent). Nothing in this Ordinance shall prevent the Council from establishing one bank account for any of the funds required by this Ordinance.

B. Investment of Money. Any moneys in any fund or account designated in this Ordinance may be invested or reinvested by the Village Treasurer (Finance Director) in such obligations as may be permitted by the Constitution and laws of the State of New Mexico, and applicable federal statutes and regulations. The obligations so purchased as an investment of moneys in said fund shall be deemed at all times to be part of said fund, and the interest accruing thereon and any profit realized therefrom shall be credited to the fund and any loss resulting from such investment shall be charged to the fund. The Treasurer (Finance Director) of the Village shall present for redemption or sale on the prevailing market any obligations so purchased as an investment of moneys in the fund whenever it shall be necessary to do so in order to provide moneys to meet any payment or transfer from such fund.

**Section 28. Lien on Net Revenues; Lien on Hold Harmless GRT.**

A. Lien on Net Revenues. The System Revenue Bond, subject to the payment of all necessary and reasonable operation and maintenance expenses and together with outstanding Parity System Lien Bonds, constitute an irrevocable lien upon the Net Revenues. The System Revenue Bond and any other Parity System Lien Bonds now Outstanding or authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the Net Revenues and shall not be entitled to any priority one over the other in the

application of the Net Revenues regardless of the time or times of the issuance thereof, it being the intention of the Village that there shall be no priority among the System Revenue Bond, the 2006 Note, the 2016 Note and any other Parity System Lien Bonds, regardless of the fact that they may be actually issued and delivered at different times.

B. Lien on Hold Harmless GRT. The GRT Revenue Bond constitutes an irrevocable lien upon the Hold Harmless GRT. The GRT Revenue Bond and any other Parity GRT Lien Bonds now Outstanding or authorized to be issued and from time to time Outstanding are equitably and ratably secured by a lien on the receipts from the Hold Harmless GRT and shall not be entitled to any priority one over the other in the application of the receipts from the Hold Harmless GRT regardless of the time or times of the issuance thereof, it being the intention of the Village that there shall be no priority among the GRT Revenue Bond and any other Parity GRT Lien Bonds, regardless of the fact that they may be actually issued and delivered at different times.

## **Section 29. Additional Bonds Payable from Net Revenues.**

A. Earnings Tests. This Ordinance shall not prevent the issuance of additional Parity System Lien Bonds. Before any such additional Parity System Lien Bonds are actually issued it must be determined that:

1. The Village is not, and has not been in default as to any payments required to be made in Section 21 hereof during the Fiscal Year immediately preceding the issuance of such additional bonds; and

2. The annual Net Revenues derived from the operation of said System for the Fiscal Year immediately preceding the date of the ordinance authorizing the issuance of any such Parity System Lien Bonds shall have been sufficient to pay an amount representing 100% of the average annual principal and interest requirements on all bonds then outstanding constituting a lien upon Net Revenues and the bonds proposed to be issued (excluding reserves). As used in this section "average annual principal and interest requirements" shall be the total principal and interest coming due on the System Revenue Bond and the then outstanding and proposed Parity System Lien Bonds during the period extending from the date of the proposed Parity System Lien Bonds to the final principal payment date of the System Revenue Bond and then outstanding Parity System Lien Bonds or the proposed Parity System Lien Bonds, whichever is longer, divided by the number of years (including any fraction thereof) computed from the date of the proposed Parity System Lien Bonds to the last principal payment date of the System Revenue Bond or then outstanding Parity System Lien Bonds, or the proposed Parity System Lien Bonds, whichever is longer.

The foregoing limitations upon the issuance of Parity System Lien Bonds shall not apply in the case of the issuance of additional Parity System Lien Bonds necessary to complete the Project in accordance with the original plans and specifications thereof or as prepared and filed by the Consulting Engineer and upon certificates by such Engineers that such Parity System Lien Bonds are required for such original project. Such certificates shall conclusively determine the right of the Village to issue such Parity System Lien Bonds.

B. Certification of Revenues. A written opinion or certificate by an Independent Accountant or the Village Treasurer (Finance Director) that annual Net Revenues are sufficient shall conclusively determine the right of the Village to issue additional Parity System Lien Bonds. The Independent Accountant or the Village Treasurer (Finance Director) may utilize the results of any annual audit to the extent it covers the applicable period.

C. Consideration of Additional Expenses. In determining whether additional Parity System Lien Bonds may be issued, the Independent Accountant or Village Finance Director shall consider any probable increase (but not reduction) in operation and maintenance expenses. A written certificate by a Consulting Engineer as to the amount of such probable increase may be conclusively relied upon in determining the right of the Village to issue additional Parity System Lien Bonds.

D. Subordinate Obligations Permitted. The Village may issue bonds or other obligations having a lien on Net Revenues which are subordinate to the lien of the System Revenue Bond.

E. Superior Obligations Prohibited. The Village shall not issue any bond or other obligation having a lien on the Net Revenues which are prior and superior to the System Revenue Bond.

**Section 30. Additional Bonds Payable from Hold Harmless GRT.**

A. Earnings Tests. This Ordinance shall not prevent the issuance of additional Parity GRT Lien Bonds. Before any such Parity GRT Lien Bonds are actually issued it must be determined that:

1. The Village is not, and has not been in default as to any payments required to be made in Section 21 hereof during the Fiscal Year immediately preceding the issuance of such additional bonds; and

2. The annual receipts from the Hold Harmless GRT for the Fiscal Year immediately preceding the date of the ordinance authorizing the issuance of any such Parity System Lien Bonds shall have been sufficient to pay an amount representing 100% of the average annual principal and interest requirements on all bonds then outstanding constituting a lien upon the receipts from the Hold Harmless GRT and the Parity GRT Lien Bonds proposed to be issued (excluding reserves). As used in this section "average annual principal and interest requirements" shall be the total principal and interest coming due on the GRT Revenue Bond and the then outstanding and proposed Parity GRT Lien Bonds during the period extending from the date of the proposed Parity GRT Lien Bonds to the final principal payment date of the GRT Revenue Bond and then outstanding Parity GRT Lien Bonds or the proposed Parity GRT Lien Bonds, whichever is longer, divided by the number of years (including any fraction thereof) computed from the date of the proposed Parity GRT Lien Bonds to the last principal payment date of the GRT Revenue Bond or then outstanding Parity GRT Lien Bonds, or the proposed Parity GRT Lien Bonds, whichever is longer.

The foregoing limitations upon the issuance of Parity GRT Lien Bonds shall not apply in the case of the issuance of Parity GRT Lien Bonds necessary to complete the Project in



accordance with the original plans and specifications thereof or as prepared and filed by the Consulting Engineer and upon certificates by such Engineers that such Parity GRT Lien Bonds are required for such original project. Such certificates shall conclusively determine the right of the Village to issue such Parity GRT Lien Bonds.

B. Certification of Revenues. A written opinion or certificate by an Independent Accountant or the Village Treasurer (Finance Director) that annual receipts from the Hold Harmless GRT are sufficient shall conclusively determine the right of the Village to issue Parity GRT Lien Bonds. The Independent Accountant or the Village Treasurer (Finance Director) may utilize the results of any annual audit to the extent it covers the applicable period.

C. Consideration of Additional Expenses. In determining whether Parity GRT Lien Bonds may be issued, the Independent Accountant or Village Finance Director shall consider any probable increase (but not reduction) in receipts from the Hold Harmless GRT. A written certificate by a Consulting Engineer as to the amount of such probable increase may be conclusively relied upon in determining the right of the Village to issue Parity GRT Lien Bonds.

D. Subordinate Obligations Permitted. The Village may issue bonds or other obligations having a lien on receipts from the Hold Harmless GRT which are subordinate to the lien of the GRT Revenue Bond.

E. Superior Obligations Prohibited. The Village shall not issue any bond or other obligation having a lien on the Hold Harmless GRT which are prior and superior to the GRT Revenue Bond.

**Section 31. Refunding Bonds.** It is the expectation of the Village that the Bonds will be refunded with the proceeds of the USDA Bonds. In addition, the Bonds may otherwise be refunded in accordance with this Section.

A. Privilege Of Issuing Refunding Obligations. If at any time the Council shall find it desirable to refund any outstanding Bonds for the purpose of effecting interest rate savings, said Bonds may be refunded with like security (i.e., refunding bonds may be issued as Parity System Lien Bonds for the purpose of refunding the System Revenue Bond and refunding bonds may be issued as Parity GRT Lien Bonds for the purpose of refunding the GRT Revenue Bond) without compliance with the provisions of Sections 29 or 30 of this Ordinance, as applicable.

B. Limitations Upon Issuance of Parity Refunding Obligations. No refunding bonds or obligations shall be issued on a parity with the Bonds, unless:

1. The lien of the obligations refunded is on a parity with the lien of the Bonds being refunded, or

2. The refunding bonds or obligations are issued in compliance with paragraph A of Section 29, or Section 30, as applicable, hereof.

C. Refunding Part of an Issue. The refunding bonds or obligations shall enjoy complete equality of lien with any portion of the same issue which is not refunded. The

holders of such refunding bonds or obligations shall be subrogated to all of the rights and privileges enjoyed by the holders of the bonds or obligations of the same issue refunded thereby.

D. Limitations Upon Issuance of any Refunding Obligations. Any refunding bonds or obligations shall be issued with such details as the Council may provide, but without impairing any contractual obligation imposed by any proceedings authorizing any unrefunded portion of any issue (including the Bonds). If only a part of any issue or issues is refunded, then there may be no refunding without the consent of the holders of the unrefunded portion, unless:

1. The refunding bonds or obligations do not increase the aggregate principal and interest requirements for any fiscal year commencing prior to the last maturity date of such unrefunded obligations, or

2. The lien of the refunding obligations is subordinate to the lien or any obligations not refunded, or

3. The refunding bonds or obligations are issued in compliance with paragraph A of Section 29, or Section 30, as applicable, hereof.

**Section 32. Protective Covenants.** That the Village hereby covenants and agrees with each and every registered owner of the Bonds that:

A. Use of Bond Proceeds. The Project shall be constructed and acquired without unreasonable delay. The Village will prepare and periodically file with the Bank and USDA reports relating to the progress of construction.

B. Payment of Bonds Herein Authorized. The Village will pay bond principal and interest at the place, on the dates, and in the manner specified according to the true intent and meaning thereof.

C. Use Charges. Rates for all services rendered by the System shall be reasonable and just, taking into account and consideration the cost and value of the System and the proper and necessary allowances for the depreciation thereof and the amounts necessary for the retirement of the System Revenue Bond and all other Parity System Lien Bonds, accruing interest thereon, and reserves therefor and there shall be charged against all purchasers of service, including the Village, such rates and amounts as shall be adequate to meet the requirement of this and the preceding Sections hereof, and which shall be sufficient to produce revenues annually to pay the annual operation and maintenance expenses of the System and one hundred per cent (100%) of both the principal of (including mandatory sinking fund redemption amounts) and interest on the System Revenue Bond and other Parity System Lien Bonds (excluding the reserves therefor), all of which revenues, including those received from the Village, shall be subject to distribution to the payment of the cost of operating and maintaining the System and the payment of principal of (including mandatory sinking fund redemption amounts) and interest on all obligations payable from the revenues of the System, including reasonable reserves therefor. No free service, facilities nor commodities shall be furnished by the System. Should the Village elect to use for municipal purposes water supplied by, or the sanitary sewer facilities of, the System, or any combination thereof, or in any other manner use the System, or any part thereof, any use of the System by or of the services rendered thereby to

the Village, or any department, board or agency thereof, any use of the System by or of the services rendered thereby to the Village, or any department, board or agency thereof, will be paid for from the Village's general fund or other available revenues at the reasonable value of the use so made, or service, facility or commodity so rendered; and all the revenue so derived from the Village shall be deemed to be income derived from the operation of the System, to be used and accounted for in the same manner as any other income derived from the operation of the System. The Village is granted by statute a lien upon each lot or parcel of land in the Village for the charges imposed hereunder for water and sewerage facilities and services supplied by the System to the owner thereof (except as otherwise provided in Section 3-23-6, NMSA 1978), and the Village expressly covenants and agrees that it will cause each such lien to be perfected in accordance with the provisions of Sections 3-23-6 and 3-36-1 through 3-36-7, NMSA 1978, as from time to time amended, and the Village covenants and agrees that it will take all steps necessary to enforce such lien as to each piece of property the owner of which shall be delinquent for more than six months in the payment of charges imposed hereunder.

D. Levy of Charges. The Village will forthwith and in any event prior to the delivery of the System Revenue Bond fix, establish and levy the rates and charges which are required by paragraph C of this Section, if such action be necessary therefor. No reduction in any initial or existing rate schedule for the System may be made unless:

1. The Village has fully complied with the provisions of Section 21 of this Ordinance for at least the full Fiscal Year immediately preceding such reduction of the initial rate schedule; and

2. The audits for the full two Fiscal Years immediately preceding such reduction disclose that the estimated revenues resulting from the proposed rate schedule will be sufficient to meet the requirements of paragraph C of this Section.

3. The Bank, as well as the appropriate district or state official of USDA, to the extent required by USDA, approves in writing the proposed reduction provided that they shall first have been furnished with a written request signed by the Mayor of the Village requesting and justifying such reduction.

In addition, the Village shall take such actions within its power and control to collect and apply the Hold Harmless GRT as provided in this Ordinance.

E. Efficient Operation. The Village will operate said System so long as any of the System Revenue Bond herein authorized is outstanding, maintain said System in efficient operating condition and make such improvements, extensions, enlargements, repairs and betterments thereto as may be necessary or advisable to insure its economical and efficient operation at all times and to the extent sufficient to supply public or private demands for service within the Village and the territory adjacent thereto.

F. Records. So long as any of the System Revenue Bond remains outstanding, proper books of record and account will be kept by the Village, separate and apart from all other records and accounts, showing complete and correct entries of all transactions

relating to the System. Such books shall include (but not necessarily be limited to) monthly records showing:

1. The number of customers;
2. The revenues received from charges to customers by water facilities and sewer facilities;
3. A detailed statement of the expenses of the System; and
4. Such other items specified in any form furnished by USDA.

In addition, so long as any of the GRT Revenue Bond or any Parity GRT Lien Bonds remain outstanding, proper books of record and account will be kept by the Village, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Hold Harmless GRT.

G. Right to Inspect. Any registered owner of any of the Bonds or any duly authorized agent or agents of such registered owner, shall have the right at all reasonable times to inspect the System and all properties comprising the System or the Hold Harmless GRT.

H. Audits and Budgets. The Village further agrees that except where the State Auditor of the State of New Mexico performs the audit or where the due date for the audit has been postponed as may otherwise be required by the State Auditor or any other state agency with appropriate authority, it will, within 180 days following the close of each Fiscal Year, cause an audit of such books and accounts to be made by an Independent Accountant and shall furnish two copies of such audit to the Purchaser and, if required by USDA, a copy of the audit, its accompanying letters and the Data Collection Form to the Federal Clearinghouse designated by the Office of Management and Budget. Each such audit, in addition to matters thought proper by the accountant, shall include:

1. A statement for the Fiscal Year just closed, of the income and expenditures of the System, including gross revenues, net revenues, the amount of any capital expenditures and profit or loss;
2. A balance sheet as of the end of such Fiscal Year, including all funds created by proceedings authorizing bonds payable from revenues;
3. The accountant's comment regarding the Village's methods of operation and accounting practices;
4. A list of the insurance policies in force, setting out the amount of each policy, the risks covered, the name of the insurer, and the expiration date;
5. A recapitulation of each fund or account created by the various proceedings showing deposits and withdrawals for said Fiscal Year.

6. A statement for the Fiscal Year just closed, of the collections and disbursements from the Hold Harmless GRT.

After the beginning of each new Fiscal Year, the Village shall furnish the Bank, as Holder, and USDA (if required by USDA) with an operating budget showing the planned budget for the ensuing year and a copy of the minutes of the meeting of the Council at which such budget was approved. Along with the operating budget, the Village shall provide a letter showing the name, address and term of office for each member of the Council, the number of residential users and the number of commercial users of the System as of the end of the Fiscal Year. The Village will furnish the designated USDA representative with quarterly statements of income and expense on forms furnished by USDA. The Village will furnish a copy of each audit, budget, quarterly statement and written instrument to any Holder at his request, and without request to USDA. Any Holder shall have the right to discuss the contents with any person making the audit.

I. Billing Procedure and Discontinuance of Service. All bills for water, water service or facilities, sewer service or facilities, or any combination thereof, furnished or served by or through the System shall be rendered to customers on a regularly established day of each and every month either monthly in advance or in the month next succeeding the month in which the service was rendered and shall be due within 30 days from the date rendered; and in the event said bills are not paid within 75 days after the date when rendered, water and water service shall be discontinued, except as otherwise provided by law, and the rates and charges due shall be collected in a lawful manner, including but not limited to the cost of disconnection and reconnection. Water charges and sewer charges shall be billed jointly with each other.

J. Use of Funds. The Income Fund, the Hold Harmless GRT Fund, and the Reserve Fund, respectively, shall be used solely and only for the purposes set forth above.

K. Charges and Liens upon System. From the revenues of the System, the Village will pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied, assessed upon or in respect to said System, or any part thereof, when the same shall become due, and it will duly observe and comply with all valid requirements of any municipal or governmental authority relative to any part of said System. The Village will not create or suffer to be created any lien or charge upon said System or upon the revenues therefrom except as permitted by this Ordinance, or it will make adequate provisions to satisfy and discharge within sixty days after the same shall accrue, all lawful claims and demands for labor, materials, supplies or other objects, which, if unpaid, might by law become a lien upon said System or upon the revenues therefrom; provided, however, that nothing herein shall require the Village to pay or cause to be discharged, or make provision for any such tax, assessment, lien or charge before the time when payment thereof shall be due or so long as the validity thereof shall be contested in good faith by appropriate legal proceedings.

L. Construction Contract and Bond. The Village will require each person, firm or corporation with whom it may contract for labor or materials to furnish a performance and payment bond in the full amount of any contract. Any such contract will meet the reasonable requirements of USDA as are not inconsistent with state law.

M. Insurance. Fire and extended coverage insurance will be obtained and maintained on the facilities above ground, including Village-owned contents, the amounts will be determined with the assistance of the Project Engineer and must be at least equal to the depreciated replacement value. The proceeds of such insurance shall be used to restore the property lost or damaged and any remainder will be distributed as Net Revenues. The Village will carry workmen's compensation insurance on all full-time employees and will maintain public liability insurance (including liability and property damage insurance on Village-owned or operated vehicles) if authorized by state law as interpreted by the attorney for the Village.

N. Competing System. As long as any of the Bonds are outstanding and to the extent permitted by law, the Village shall not grant any franchise or license to a competing system, nor shall it permit during said period, (except as it may legally be required to do so) any person, association, firm or corporation to sell water, water service or facilities, sanitary sewer service or facilities, to any consumer, public or private, within the Village.

O. Alienating System. The Village will not sell, lease, mortgage, pledge, or otherwise encumber, or in any manner dispose of, or otherwise alienate, the System, or any part thereof, including any and all extensions and additions that may be made thereto, until all the Bonds shall have been paid in full, both principal and interest, or if the United States of America no longer owns the Bond, unless there has been defeasance as provided herein, except that the Village may sell any portion of said property which shall have been replaced by other property of at least equal value, or which shall cease to be necessary for the efficient operation of the System, but in no manner nor to such extent as might prejudice the security for the payment of the Bonds, provided, however, that in the event of any sale as aforesaid, the proceeds of such sale shall be distributed as Net Revenues in accordance with the provisions of Section 21 hereof.

P. Extending Interest Payments. In order to prevent any accumulation of claims for interest after maturity the Village will not directly or indirectly, extend or assent to the extension of the time for payment of any claim for interest on any of the Bonds, and it will not directly or indirectly be a party to or approve any arrangement for any such extension or for the purpose of keeping alive any of said interest and in case the time for payment of any such interest shall be extended, such installment or installments of interest after such extension or arrangement shall not be entitled in case of default hereunder to the benefit or security of this Ordinance except subject to the prior payment in full of the principal of all Bonds then outstanding, and of matured interest on such Bonds the payment of which has not been extended.

Q. Management of the System. If an "event of default" shall occur or if the Net Revenues in any Fiscal Year fail to equal principal, interest and reserves for all bonds payable from Net Revenues, the Village shall retain a Consulting Engineer to assist the management of the System so long as such default continues or the Net Revenues are less than the amount designated.

R. Surety Bonds. The Village Treasurer (Finance Director), being responsible for receiving income and maintaining the accounts of the System, shall be bonded in an amount required by applicable law and, to the extent applicable, required by USDA (in such case such fidelity bond may be provided on Form RD 440-24 or other equivalent USDA forms and may designate USDA as a co-obligee).

S. Village's Existence.

1. The Village will maintain its "corporate" identity and existence so long as any of the Bonds remain outstanding (and the United States of America is a registered Holder of any of such bonds) unless another political subdivision by operation of law succeeds to the liabilities and rights of the Village, without adversely affecting to any substantial degree the privileges and rights of any Holder.

2. The Village agrees to give written notice to the Bank, as Holder, and to the USDA district or state office, if the United States of America is a registered Holder of any of the Bonds, at least 30 days prior to any contemplated merger, consolidation or dissolution of the Village.

T. Tax Covenant. The Village 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 Village or any facilities financed with the proceeds of the Bonds if such action or omission (i) would cause the interest on the Bonds to lose its exclusion from gross income for federal income tax purposes under Section 103 of the Tax Code or (ii) would cause interest on the Bonds to lose its exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustment applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income. 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 Village in fulfilling the above covenant under the Tax Code have been met.

**Section 33. Defeasance.** When all principal, any applicable prior redemption premium and interest in connection with the Bonds hereby authorized have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the Bonds shall no longer be deemed to be outstanding within the meaning of this Ordinance.

So long as the United States of America is not the owner of the Bonds, there shall be deemed to have been made such due payment as to any Bond when the Council has placed in escrow and in trust with a commercial bank located within or without the State of New Mexico and exercising trust powers, an amount sufficient (including the known minimum yield from Federal Securities in which such amount may initially be invested) to meet all requirements of principal, interest and any applicable prior redemption premium as the same become due to its maturity (including mandatory sinking fund redemption) or designated redemption date as of which the Village shall have exercised or obligated itself to exercise its option to call such Bond. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed, in accordance with a schedule established and agreed upon between the Council and such bank at the time of the creation of the escrow or the Federal Securities shall be subject to the redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule. "Federal Securities" within the meaning of this Section shall include only direct obligations of the United States of America and which are not callable prior to maturity by the issuer of such obligations.

**Section 34. Events of Default.** It is an “event of default” if:

A. Nonpayment of Principal. Payment of principal of any Bond is not made when due at maturity or upon prior redemption.

B. Nonpayment of Interest. Payment of interest on any Bond is not made when due.

C. Default of Any Provision. The Village defaults in the punctual performance of its covenants hereunder for 60 days after written notice shall have been given by the Holders of 25% in principal amount of the outstanding bonds.

**Section 35. Remedies of Default.** Upon the happening of any event of default, the Holder or Holders of not less than 25% in principal amount of the outstanding Bonds, or a trustee therefor, may protect and enforce the rights of any bondholder by proper legal or equitable remedy deemed most effectual including mandamus, specific performance of any covenant, the appointment of a receiver (the consent to such appointment being hereby granted), injunctive relief, or requiring the Council to act as if it were the trustee of an expressed trust, or any combination of such remedies. All proceedings shall be maintained for the equal benefit of all Holders to the extent of their respective rights under this Ordinance. Any receiver appointed to protect the rights of bondholders may, to the fullest extent permitted by law, take possession and operate and maintain the System, and may apply revenues or receipts from the Hold Harmless GRT, in the same manner as the Village itself might do. The failure of any Holder to proceed does not relieve the Village or any person of any liability for failure to perform any duty hereunder. The foregoing rights are in addition to any other right and the exercise of any right by any bondholder shall not be deemed a waiver of any other right.

**Section 36. Duties upon Default.** Upon the happening of any event of default, the Village will perform all proper acts to protect and preserve the security created for the prompt payment of the principal of and interest on the bonds. The Holder or Holders of not less than 25% in principal amount of the outstanding Bonds, after written demand, may proceed to protect and enforce the rights provided by this section.

**Section 37. Prior Charge Upon Lower Rates.** If any Council or authority lawfully prescribes a lower schedule of rates than that contemplated by this Ordinance, then the payment of principal and interest on the System Revenue Bond, and Parity System Lien Bonds, shall constitute a prior charge on revenues.

**Section 38. Equal Opportunity Agreement; Other Required Agreements.** At the request of the United States of America, the Mayor and the Village Clerk are authorized and directed to execute for and on behalf of the Village Form RD 400-4, entitled “Non-Discrimination Agreement,” and Form RD 400-1 entitled “Equal Opportunity Agreement,” including an “Equal Opportunity Clause,” which clause is to be incorporated in each construction contract and sub-contract in excess of \$10,000, or other equivalent USDA forms.

**Section 39. Amendment of Ordinance.** This Ordinance may be amended, without receipt by the Village of any additional consideration, but with the written consent of the Holders of three-fourths (3/4) of the Bonds then outstanding (not including bonds which may be



held for the account of the Village); but no ordinance adopted without the written consent of the Holders of all outstanding bonds shall have the effect of permitting:

- A. An extension of the maturity of any Bond; or
- B. A reduction in the principal amount or interest rate of any Bond; or
- C. The creation of a lien upon revenues or Hold Harmless GRT, as applicable, ranking prior to the lien or pledge created by this Ordinance; or
- D. A reduction of the principal amount of Bonds required for consent to such amendatory ordinance; or
- E. The establishment of priorities as between Bonds issued and outstanding under the provisions of this Ordinance; or
- F. The modification of or otherwise affecting the rights of the Holders of less than all of the outstanding Bonds.

**Section 40. Delegated Powers.** The officers of the Village be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Ordinance, including, without limitation, the execution of a Construction Loan Disbursement Agreement and the execution of such certificates or forms as may be reasonably required by the Purchaser, relating to the signing of the Bonds, the tenure and identity of the officials of the Council and of the Village, the delivery of the Bonds and the receipt of the bond purchase price, and, if it is in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof, and (as applicable) the absence and existence of factors affecting the exemption of interest on the Bonds from federal income taxation, the assembly and dissemination of financial and other information concerning the Village and the bonds, and the sale and issuance of the bonds pursuant to the provisions of this Ordinance and to any instrument supplemental thereto. Pursuant to the Supplemental Act, the Mayor and Village Administrator are each hereby delegated authority to accept one or more binding bids and select the Purchaser, to execute the Sale Certificate and to determine any or all of the final terms of the Bonds, subject to the parameters and conditions contained in this Ordinance. The Mayor and Village Administrator shall present the Sale Certificate to the Council in a timely manner, before or after delivery of the Bonds, at a regularly scheduled public meeting of the Council.

**Section 41. Prior Contracts.** If any provision herein is inconsistent with any provision in any existing contract pertaining to the Village so as to affect prejudicially and materially the rights and privileges thereunder, so long as such contract shall remain viable and in effect such provision therein shall control such inconsistent provision herein and the latter provision shall be subject and subordinate to such provision in such existing contract.

**Section 42. Police Power.** Nothing herein prohibits or otherwise limits or inhibits the exercise by the State of New Mexico, any agency thereof or any political subdivision thereof, including, without limitation, the Village, of the police power, i.e., essential governmental powers for the public welfare. The provisions hereof are subject to any proper exercise in the future of the police power thereby. The Village cannot contract away the police

power thereof nor limit or inhibit by contract the proper exercise of the police power thereby, and this Ordinance does not purport to do so.

**Section 43. Ordinance Irrepealable.** After any of the Bonds herein authorize are issued, this Ordinance shall be and remain irrepealable until the Bonds and interest thereon shall be fully paid, cancelled and discharged as herein provided.

**Section 44. Severability.** If any section, paragraph, clause, or provision of this Ordinance shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

**Section 45. Repealer Clause.** All bylaws, orders, and ordinances, or parts thereof, inconsistent herewith, including but not limited to Form RD 1942-47 "Loan Resolution," as applicable, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, or ordinance, or part thereof, heretofore repealed.

**Section 46. Effective Date.** This Ordinance, immediately upon its final passage by 3/4ths of the members of the Council and approval, shall be recorded in the book of ordinances of the Village kept for that purpose, authenticated by the signature of the Mayor, as presiding officer of the Village, and by the signature of the Village Clerk; this Ordinance: (a) shall be published by posting in six public places as required by law, and (b) may be published by publication one time by title and general summary of the subject matter contained in this Ordinance (set out in Section 47 below) in a newspaper of general circulation in the Village, in accordance with the law, and said ordinance shall be in full force and effect five days after such publication.

**Section 47. General Summary for Publication.** Pursuant to Section 3-17-5, NMSA 1978, as amended, the title and a general summary of the subject matter contained in this Ordinance shall be published in substantially the following form:

(Form of Summary of Ordinance for Publication)

VILLAGE OF TAOS SKI VALLEY, NEW MEXICO  
NOTICE OF ADOPTION OF ORDINANCE NO. 2018-64

NOTICE IS HEREBY GIVEN of the title and of a general summary of the subject matter contained in Ordinance No. 2018-64, duly adopted and approved by the Village Council of the Village of Taos Ski Valley on November 14, 2017. A complete copy of the Ordinance is available for public inspection during the normal and regular business hours of the Village Clerk in the office of the Village Clerk, 7 Firehouse Road, PO Box 100, Taos Ski Valley, New Mexico 87525.

The title of the Ordinance is:

CONCERNING THE MUNICIPAL JOINT WATER AND SEWER SYSTEM OF THE VILLAGE OF TAOS SKI VALLEY, NEW MEXICO; PROVIDING FOR THE EXTENSION, ENLARGEMENT, BETTERMENT, REPAIR AND OTHER IMPROVEMENT OF SUCH SYSTEM AND FOR THE ISSUANCE OF REVENUE BONDS IN THE AGGREGATE MAXIMUM AMOUNT OF \$8,500,000, CONSISTING OF THE VILLAGE'S JOINT WATER AND SEWER DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$3,500,000, AND ITS GROSS RECEIPTS TAX DRAW DOWN REVENUE BOND (INTERIM BANK BOND), IN THE MAXIMUM PRINCIPAL AMOUNT OF \$5,000,000, TO PROVIDE TEMPORARY CONSTRUCTION FINANCING FOR THE PROJECT PENDING THE ISSUANCE BY THE VILLAGE OF ITS REVENUE BOND OR BONDS TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT (USDA) TO PROVIDE PERMANENT FINANCING FOR SUCH PROJECT; DECLARING THE NECESSITY FOR MAKING AND ISSUING SUCH BONDS WHICH SHALL BE PAYABLE SOLELY OUT OF THE NET REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM (AS TO THE SYSTEM REVENUE BOND) AND CERTAIN GROSS RECEIPTS TAX RECEIPTS PLEDGED FOR SUCH PURPOSE (AS TO THE GRT REVENUE BOND), RESPECTIVELY, AS PROVIDED HEREIN; APPROVING THE DELEGATION OF AUTHORITY TO MAKE CERTAIN DETERMINATIONS REGARDING THE SALE OF THE BONDS PURSUANT TO THE SUPPLEMENTAL PUBLIC SECURITIES ACT; PROVIDING FOR THE COLLECTION AND DISPOSITION OF THE REVENUES TO BE DERIVED FROM THE OPERATION OF SUCH SYSTEM AND THE COLLECTION AND DISPOSITION OF SUCH GROSS RECEIPTS TAX, RESPECTIVELY; PROVIDING THE FORM, TERMS AND CONDITIONS OF SUCH REVENUE BONDS, THE METHOD OF PAYING SUCH AND THE SECURITY THEREFOR; AUTHORIZING THE USE OF A SINGLE REGISTERED BOND FOR EACH SUCH SERIES; PRESCRIBING OTHER DETAILS CONCERNING SUCH SYSTEM REVENUES, GROSS RECEIPTS TAX, BONDS AND SYSTEM, INCLUDING BUT NOT LIMITED TO

COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH AND WITH FUTURE FINANCING THEREFOR; RATIFYING ACTION PREVIOUSLY TAKEN IN CONNECTION THEREWITH; AND REPEALING ALL ORDINANCES IN CONFLICT HEREWITH.

The following is a general summary of the subject matter contained in such Ordinance.

Preambles recite such matters as incorporation of the Village and the operation of a joint water and sanitary sewer system (the "System") by the Village; recite that the Net Revenues have previously been pledged to the payment of the Village's promissory notes to the New Mexico Environment Department (the "Outstanding Parity System Lien Bonds") which presently remain outstanding; finding that the Village has heretofore imposed by ordinance a 3/8% hold harmless gross receipts tax; determine that the System is insufficient and inadequate to meet the needs of the Village and the need for the Project defined therein and further described herein; provide that the Bonds will be issued pursuant to Sections 3-31-1 through 3-31-12 NMSA 1978 and that such Net Revenues (as well as the proceeds of the Village's hold harmless gross receipts tax described therein) are to be pledged as security for the Bonds; recite the existence of a letter of conditions between the Village and the United States of America, acting by and through the United States Department of Agriculture, Rural Development ("USDA"), in which USDA has agreed to provide permanent financing by refinancing the Bonds upon Project completion; reciting the existence of a proposal from TIB The Independent BankersBank, N.A., for temporary construction financing for the Project and that such proposal represents the best proposal for such financing; and determine that the Project is a governmental purpose and will not cause the Bonds to be "private activity bonds" as defined by the Internal Revenue Code of 1986, as amended, and that neither the Village nor any subordinate entity thereof reasonably expects to issue more than \$10,000,000 of bonds and similar obligations during the calendar year in which such bonds are expected to be issued.

Sections 1 through 5 define terms used in the ordinance; ratify previous action by officers of the Village; provide that the System shall constitute a public system; authorize extending, enlarging, bettering, repairing and otherwise improving the System (herein "Project") and the issuance therefor of the Bonds, in the aggregate principal amount of up to \$8,500,000, payable from Net Revenues or hold harmless gross receipts tax, as applicable.

Sections 6 and 7 provide details of the Bonds including but not limited to issuing the Village's system revenue bond as a single bond in the maximum principal amount of up to \$3,500,000 and hold harmless gross receipts tax revenue bond in the maximum principal amount of \$5,000,000 (provided that the aggregate principal amount of the Bonds shall not exceed \$8,500,000); delegate the Mayor and Village Administrator the authority to execute a Sale Certificate to establish the final terms of the Bonds within the parameters established in the Bond Ordinance; provide that such bonds shall be registered as to both principal and interest; provide for a rate of interest (with interest payable on a semi-annual basis over a 36-month period to maturity and principal and accrued and unpaid interest payable at maturity); provide the place and manner of payment of principal and interest of the Bonds including provisions for payment of interest on the Record Date and Special Record Date; and provide for continuation of interest upon nonpayment of principal at maturity.

Sections 8 through 17 provide terms and conditions of prior redemption; provide that the Bonds are negotiable instruments under the Uniform Commercial Code and are special obligations payable solely from the Net Revenues or hold harmless gross receipts tax, respectively; provide for the manner of execution and authentication of the Bonds; provide provisions relating to registration, transfer, exchange, replacement and cancellation of, and Registration records for the Bonds (i.e., registration books), transfer and exchange, authentication, times when transfer or exchange not required, payment to registered owners, replacement bonds, delivery of bond certificates to registrar and cancellation of bonds; successor registrar or paying agent; further provide for the forms of the Bonds, certificate of authentication, assignment and legal opinion certificate; and declare the Bonds to be qualified tax exempt obligations under Section 265(B)(3)(b) of the Internal Revenue Code of 1986, as amended, and determine the period of usefulness of the Project being acquired with Bond proceeds.

Sections 18 through 28 provide for the execution and delivery of the Bonds and initial registration; provide for the disposition of proceeds of the Bonds into several funds and accounts in connection therewith, including but not limited to a Construction Account, and the administration thereof; provide that the Purchaser shall not be responsible for disposal of Bond proceeds; provide for the continued administration of the Village's Income Fund and Operation and Maintenance Fund, and for the establishment and administration of a Hold Harmless GRT Fund, a Bond Fund and a Reserve Fund for the Bonds; provide for the administration of all funds and special accounts created by the ordinance; the places and times of the deposits into the funds and accounts; provide for termination of deposits, and defraying delinquencies in the Bond Fund and Reserve Fund, payment for additional obligations, and use of surplus Net Revenues and hold harmless gross receipts tax; and that the Bonds constitute an irrevocable lien (but not necessarily an exclusive lien) on the Net Revenues and hold harmless gross receipts tax, respectively.

Sections 29 through 31 set out the terms and conditions under which Parity System Lien Bonds secured by a lien on Net Revenues, and under which Parity GRT Lien Bonds secured by a lien on the hold harmless gross receipts tax may be issued; prohibit the issuance of obligations having a superior lien, permit the issuance of obligations having a subordinate lien; set forth the terms and obligations relative to refunding obligations; and provide for equality among the System Revenue Bond and Parity System Lien Bonds in the application of the Net Revenues.

Section 32 provides protective covenants whereby the Village covenants with each registered owner for the protection of such registered owners covering such matters as use of bond proceeds, use charges for services rendered by the System, efficient operation and records of the System, application of receipts from the hold harmless gross receipts tax; prompt payment of Bond principal and interest, records, audits, extending interest payments, performing duties, other liens on Net Revenues, duty with respect to amount of Net Revenues, continuity of the Village's existence, no impairment of contract, and a tax covenant.

Sections 33 through 47 set forth defeasance provisions; delegate certain powers to Village officers; describe events of default; provide for refinancing of the Bonds; provide for equal opportunity with regard to construction contracts; provide for remedies and duties upon default; provide for a method of enforcing the ordinance; provide separability and repealer

clauses; provide for the amendment of the ordinance; provide an irrepealability clause and provide an effective date and a summary for publication.

COMPLETE COPIES OF THIS ORDINANCE ARE ON FILE IN THE OFFICE OF THE VILLAGE CLERK AT 7 FIREHOUSE ROAD, P.O. BOX 100, TAOS SKI VALLEY, NEW MEXICO 87525, AND ARE AVAILABLE FOR INSPECTION AND/OR PURCHASE DURING REGULAR OFFICE HOURS. THIS NOTICE ALSO CONSTITUTES COMPLIANCE WITH SECTIONS 6-14-4 THROUGH 6-14-7, 1978.

WITNESS my hand and the seal of the Village of Taos Ski Valley, New Mexico, this [ ] day of [ ], 2017.

---

Village Clerk

(SEAL)

(End of Form of Ordinance for Publication)

PASSED, ADOPTED, SIGNED AND APPROVED THIS 14<sup>TH</sup> DAY OF  
NOVEMBER, 2017.

---

Mayor

(SEAL)

Attest:

---

Village Clerk

EXHIBIT "A"

Form of System Revenue Bond

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF TAOS

VILLAGE OF TAOS SKI VALLEY  
JOINT SEWER AND WATER SYSTEM DRAW DOWN REVENUE BOND

DATED AS OF: [\_\_\_\_], 2017

REGISTERED OWNER: TIB The Independent BankersBank, N.A.

PRINCIPAL AMOUNT:

The Village of Taos Ski Valley (herein "Village"), in the County of Taos and State of New Mexico, for value received, hereby promises to pay to TIB The Independent BankersBank, N.A. or its registered assigns upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, or registered assigns, the Principal Amount stated above (or so much thereof as shall be advanced and outstanding from time to time), with interest at the rate [\_\_\_\_]% per annum as authorized by Ordinance No. 2018-64, adopted by the Village Council of the Village on November 14, 2017 (the "Bond Ordinance").

Interest shall accrue on the unpaid balance of the total principal amount hereof from the dates advances on the total principal amount are made by the Registered Owner, as recorded in the schedule appended hereto (which advances shall be made at thirty (30) day intervals from the date of this bond upon request of the Village). Payment of interest on this bond shall be made semiannually on April 1 and October 1 of each year commencing on the first such date following the date of delivery thereof (each such day is referred to herein as a "Payment Date"). All outstanding principal and accrued and unpaid interest on this bond shall be due and payable in full on the earlier to occur of (a) the date of issuance of the USDA Bond, or (b) the date which is thirty-six (36) months following the date of delivery of this bond (as such date may be extended with the written consent of the Registered Owner) (such earlier date, the "Maturity Date"). If any installment is not paid when due, then in addition to installments thereafter becoming due, the Village shall pay interest on the unpaid balance of the total principal amount from the due date of the delinquent installment to the date of payment of the delinquent installment, provided, that interest accruing by reason of any such delinquency shall not include any interest applicable to such delinquency period in any installments subsequently paid. Except as otherwise provided herein, every payment on this bond shall be applied first to interest due through the next installment due date and then the balance to principal.

Principal and interest on this Bond are payable in lawful money of the United States of America, without deduction for exchange or collection charges, during the period the Registered Owner is the registered owner of this single bond, at the appropriate office of the Registered owner, currently designated as \_\_\_\_\_, or at



such other place as the Registered Owner may designate in writing, and are so payable during any period the Registered Owner is the registered owner hereof at the address shown on the registration books of the Village. The final installment of principal due on this bond is payable only upon the surrender of this bond to the Village. Capitalized terms which are not defined herein shall have the same meanings as such capitalized terms have in the Bond Ordinance.

The Village hereby reserves the right, at its option, to prepay the principal amount outstanding, in whole or in part, in the manner provided in the Bond Ordinance. Any prepayments shall be in the amount of principal being prepaid, together with accrued interest thereon to the date of prepayment, and shall be made without penalty or without additional interest charges. Prepayment shall be made upon prior notice as provided in the Bond Ordinance.

FOR PURPOSES OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE VILLAGE HAS DESIGNATED THIS BOND AS A QUALIFIED TAX EXEMPT OBLIGATION.

This bond shall be fully registered for payment (i.e., registered as to payment of both principal and interest) in the name of the registered owner hereof on the books of the Village in the office of the Village Treasurer (Finance Director), as Registrar, and in the space appended to this single bond. Upon surrender of any of such bond at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

Subject to the restrictions set out in the Bond Ordinance, this bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The Village and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This single bond is issued against payment for the bond purchase price of par, but said purchase price may be paid to the Village in one or more advances in accordance with the schedule appended hereto. The principal amount of this bond shall in no event exceed the actual advances paid to the Village and interest shall accrue on the amount of each advance only from the date each advance is paid. In the event the entire principal amount of this single bond is not advanced, the principal payments above described shall be reduced in inverse order accordingly.

This bond is authorized for the purpose of extending, enlarging, bettering, repairing and otherwise improving the municipal joint water and sanitary sewer system (herein the "System") and all costs incidental to the foregoing and the issuance of the bonds. This bond

is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute an indebtedness of the Village within the meaning of any charter, constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the Village, and is payable and collectible solely out of the Net Revenues (as defined below) derived from the operation of the System, the income of which is so pledged; and the registered owner hereof may not look to any general or other fund for payment of the principal of, interest on, and any prior redemption premium due in connection with this obligation, except the special funds pledged therefor. Payment of the principal of and interest on the bonds of the series of which this is one shall be made solely from, and as security for such payment there are pledged, pursuant to the Bond Ordinance, two special funds identified as the Bond Fund [and the Reserve Fund] into which the Village covenants to pay from the revenues derived from the operation of its System, after provision only for all necessary and reasonable expenses of the operation and maintenance of said System (the "Net Revenues"), sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this is one and to create (except to the extent created from other funds) and maintain a reasonable and specified reserve for such purpose. For a description of said funds and the nature and extent of the security afforded thereby for the payment of the principal of and interest on said bonds, reference is made to the Bond Ordinance.

The bonds of the series of which this is one are equitably and ratably secured by a lien on the Net Revenues and said bonds constitute an irrevocable and valid lien together with outstanding promissory notes to the New Mexico Environment Department (the "Outstanding Bonds") upon said Net Revenues. Bonds in addition to the series of which this is one and the Outstanding Bonds may be issued and made payable from said Net Revenues, having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this is one and the Outstanding Bonds, in accordance with the provisions of the Bond Ordinance.

The Village covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance, including, without limiting the generality of the foregoing, its covenant against the sale or mortgage of the System or any part thereof unless provision shall be made for the payment of the principal of and interest on the bonds of the series of which this is one (and except as provided in the Bond Ordinance), and including its covenant that it fix, maintain and collect rates for services rendered by the System sufficient to produce revenues or earnings sufficient to pay the annual operation and maintenance expenses of the System and 100% of both the principal of and interest on the bonds and any other obligations payable annually from the revenues of the System (excluding the reserves therefor).

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Village Council and officers of the Village in the issue of this bond; and that it is issued pursuant to and in strict conformity with the Charter of the Village and the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

This bond is being issued simultaneously and in conjunction with the Village's Gross Receipts Tax Revenue Bonds, in the maximum stated principal amount of \$[ ] (the "GRT Revenue Bond"). This bond and the GRT Revenue Bond are issued under the terms of the Bond Ordinance and are intended to represent and secure the obligations of the Village to repay an aggregate indebtedness of up to \$[ ] as provided in and subject to the terms of the Bond Ordinance. Under the terms of the Bond Ordinance, this bond and the GRT Revenue Bond are at all times to be held by the same Holder.

IN WITNESS WHEREOF, The Village of Taos Ski Valley has caused this bond to be signed, subscribed, executed, and attested with the facsimile signatures of its Mayor and its Village Clerk, respectively; has caused the facsimile of its corporate seal to be affixed hereon; has caused this bond to be countersigned with the facsimile signature of the Village Treasurer (Finance Director), all as of the date of delivery of this bond.

\_\_\_\_\_  
(Manual or Facsimile Signature)

Mayor

(SEAL)

Attest:

\_\_\_\_\_  
(Manual or Facsimile Signature)

Village Clerk

Countersigned:

\_\_\_\_\_  
(Manual or Facsimile Signature)

Village Treasurer (Finance Director)

(End of Form of Bond)

(Form of Registrar's Certificate of Authentication)

Date of Registration and Authentication: \_\_\_\_\_

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

Village Treasurer (Finance Director) of the Village  
of Taos Ski Valley, New Mexico, as Registrar

\_\_\_\_\_

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

For value received, \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

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

Signature Guaranteed:

\_\_\_\_\_

Name and address of transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other tax  
identification number of  
transferee:

\_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 C.F.R. § 240.17 Ad-15(a)(2).

(End of Form of Assignment)

(Form of Installment Loan Panel)

PRINCIPAL ADVANCES

The undersigned Holder loaned to the Village of Taos Ski Valley, New Mexico, the respective amount of principal on the respective dates hereinafter designated, the sum of which amounts constitutes the aggregate principal amount of the within single bond, as follows:

Date of Loan	Amount of Loan	Amount of Amortized Annual Payments	Signature of Village Treasurer or Representative of Holder

(End of Form of Installment Loan Panel)

(Form of Mandatory Registration Panel)

MANDATORY REGISTRATION FOR PAYMENT AS TO PRINCIPAL AND INTEREST

The within bond is registered in the office of the Treasurer of the Village, as Registrar, in the name of the last owner listed below; and the principal amount of the bond and interest thereon shall be payable only to such owner, all in accordance with the ordinance of the Village authorizing the bond's issuance.

Date of Registration	Name of Owner	Address of Owner	Signature of Registrar

(End of Form of Registration Panel)

EXHIBIT "B"

Form of GRT Revenue Bond

UNITED STATES OF AMERICA

STATE OF NEW MEXICO

COUNTY OF TAOS

VILLAGE OF TAOS SKI VALLEY  
GROSS RECEIPTS TAX REVENUE BOND

DATED AS OF: [\_\_\_\_], 2017

REGISTERED OWNER: TIB The Independent BankersBank, N.A.

PRINCIPAL AMOUNT:

The Village of Taos Ski Valley (herein "Village"), in the County of Taos and State of New Mexico, for value received, hereby promises to pay to TIB The Independent BankersBank, N.A. or its registered assigns upon presentation and surrender of this bond, solely from the special funds provided therefor as hereinafter set forth, or registered assigns, the Principal Amount stated above (or so much thereof as shall be advanced and outstanding from time to time), with interest at the rate [\_\_\_\_]% per annum as authorized by Ordinance No. 2018-64, adopted by the Village Council of the Village on November 14, 2017 (the "Bond Ordinance").

Interest shall accrue on the unpaid balance of the total principal amount hereof from the dates advances on the total principal amount are made by the Registered Owner, as recorded in the schedule appended hereto (which advances shall be made at thirty (30) day intervals from the date of this bond upon request of the Village). Payment of interest on this bond shall be made semiannually on April 1 and October 1 of each year commencing on the first such date following the date of delivery thereof (each such day is referred to herein as a "Payment Date"). All outstanding principal and accrued and unpaid interest on this bond shall be due and payable in full on the earlier to occur of (a) the date of issuance of the USDA Bond, or (b) the date which is thirty-six (36) months following the date of delivery of this bond (as such date may be extended with the written consent of the Registered Owner) (such earlier date, the "Maturity Date"). If any installment is not paid when due, then in addition to installments thereafter becoming due, the Village shall pay interest on the unpaid balance of the total principal amount from the due date of the delinquent installment to the date of payment of the delinquent installment, provided, that interest accruing by reason of any such delinquency shall not include any interest applicable to such delinquency period in any installments subsequently paid. Except as otherwise provided herein, every payment on this bond shall be applied first to interest due through the next installment due date and then the balance to principal.

Principal and interest on this Bond are payable in lawful money of the United States of America, without deduction for exchange or collection charges, during the period the Registered Owner is the registered owner of this single bond, at the appropriate office of the Registered owner, currently designated as \_\_\_\_\_, or at



such other place as the Registered Owner may designate in writing, and are so payable during any period the Registered Owner is the registered owner hereof at the address shown on the registration books of the Village. The final installment of principal due on this bond is payable only upon the surrender of this bond to the Village. Capitalized terms which are not defined herein shall have the same meanings as such capitalized terms have in the Bond Ordinance.

The Village hereby reserves the right, at its option, to prepay the principal amount outstanding, in whole or in part, in the manner provided in the Bond Ordinance. Any prepayments shall be in the amount of principal being prepaid, together with accrued interest thereon to the date of prepayment, and shall be made without penalty or without additional interest charges. Prepayment shall be made upon prior notice as provided in the Bond Ordinance.

FOR PURPOSES OF SECTION 265(b)(3)(B) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, THE VILLAGE HAS DESIGNATED THIS BOND AS A QUALIFIED TAX EXEMPT OBLIGATION.

This bond shall be fully registered for payment (i.e., registered as to payment of both principal and interest) in the name of the registered owner hereof on the books of the Village in the office of the Village Treasurer (Finance Director), as Registrar, and in the space appended to this single bond. Upon surrender of any of such bond at the Registrar with a written instrument satisfactory to the Registrar duly executed by the registered owner or his duly authorized attorney, such bond may, at the option of the registered owner or his duly authorized attorney, be exchanged for an equal aggregate principal amount of such bonds of the same maturity of other authorized denominations, subject to such terms and conditions as set forth in the Bond Ordinance.

Subject to the restrictions set out in the Bond Ordinance, this bond is fully transferable by the registered owner hereof in person or by his duly authorized attorney on the registration books kept by the Registrar upon surrender of this bond together with a duly executed written instrument of transfer satisfactory to the Registrar. Upon such transfer a new fully registered bond of authorized denomination or denominations of the same aggregate principal amount and maturity will be issued to the transferee in exchange for this bond, subject to such terms and conditions as set forth in the Bond Ordinance. The Village and the Registrar and Paying Agent may deem and treat the person in whose name this bond is registered as the absolute owner hereof for the purpose of making payment and for all other purposes.

This single bond is issued against payment for the bond purchase price of par, but said purchase price may be paid to the Village in one or more advances in accordance with the schedule appended hereto. The principal amount of this bond shall in no event exceed the actual advances paid to the Village and interest shall accrue on the amount of each advance only from the date each advance is paid. In the event the entire principal amount of this single bond is not advanced, the principal payments above described shall be reduced in inverse order accordingly.

This bond is authorized for the purpose of extending, enlarging, bettering, repairing and otherwise improving the municipal joint water and sanitary sewer system (herein the "System") and all costs incidental to the foregoing and the issuance of the bonds. This bond

is issued pursuant to and in strict compliance with the Constitution and laws of the State of New Mexico.

This bond does not constitute an indebtedness of the Village within the meaning of any charter, constitutional or statutory provision or limitation, shall not be considered or held to be a general obligation of the Village, and is payable and collectible solely out of the Hold Harmless GRT (as defined in the Bond Ordinance), the income of which is so pledged; and the registered owner hereof may not look to any general or other fund for payment of the principal of, interest on, and any prior redemption premium due in connection with this obligation, except the special funds pledged therefor. Payment of the principal of and interest on the bonds of the series of which this is one shall be made solely from, and as security for such payment there are pledged, pursuant to the Bond Ordinance, a special fund identified as the Hold Harmless GRT Fund into which the Village covenants to pay sums sufficient to pay when due the principal of and the interest on the bonds of the series of which this is one. For a description of said funds and the nature and extent of the security afforded thereby for the payment of the principal of and interest on said bonds, reference is made to the Bond Ordinance.

The bonds of the series of which this is one are equitably and ratably secured by a lien on the Hold Harmless GRT and said bonds constitute an irrevocable and valid lien upon said Hold Harmless GRT. Bonds in addition to the series of which this is one and the Outstanding Bonds may be issued and made payable from said Hold Harmless GRT, having a lien thereon inferior and junior to the lien or, subject to designated conditions, having a lien thereon on a parity with the lien of the bonds of the series of which this is one, in accordance with the provisions of the Bond Ordinance.

The Village covenants and agrees with the registered owner of this bond and with each and every person who may become the registered owner hereof that it will keep and perform all of the covenants of the Bond Ordinance.

This bond is subject to the conditions, and every registered owner hereof by accepting the same agrees with the obligor and every subsequent registered owner hereof that the principal of and the interest on this bond shall be paid, and this bond is transferable, free from, and without regard to any equities between the obligor and the original or any intermediate registered owner hereof for any setoffs or cross-claims.

It is further certified, recited and warranted that all the requirements of law have been fully complied with by the Village Council and officers of the Village in the issue of this bond; and that it is issued pursuant to and in strict conformity with the Charter of the Village and the Constitution and laws of the State of New Mexico, and particularly the terms and provisions of Sections 3-31-1 through 3-31-12, NMSA 1978, as amended, and all laws thereunto enabling and supplemental thereto.

This bond shall not be valid or obligatory for any purpose until the Registrar shall have manually signed the certificate of authentication herein.

This bond is being issued simultaneously and in conjunction with the Village's Joint Sewer and Water System Revenue Bond, in the maximum stated principal amount of

\$[ ] (the "System Revenue Bond"). This bond and the System Revenue Bond are issued under the terms of the Bond Ordinance and are intended to represent and secure the obligations of the Village to repay an aggregate indebtedness of up to \$[ ] as provided in and subject to the terms of the Bond Ordinance. Under the terms of the Bond Ordinance, this bond and the System Revenue Bond are at all times to be held by the same Holder.

IN WITNESS WHEREOF, The Village of Taos Ski Valley has caused this bond to be signed, subscribed, executed, and attested with the facsimile signatures of its Mayor and its Village Clerk, respectively; has caused the facsimile of its corporate seal to be affixed hereon; has caused this bond to be countersigned with the facsimile signature of the Village Treasurer (Finance Director), all as of the date of delivery of this bond.

\_\_\_\_\_  
(Manual or Facsimile Signature)

Mayor

(SEAL)

Attest:

\_\_\_\_\_  
(Manual or Facsimile Signature)

Village Clerk

Countersigned:

\_\_\_\_\_  
(Manual or Facsimile Signature)

Village Treasurer (Finance Director)

(End of Form of Bond)

(Form of Registrar's Certificate of Authentication)

Date of Registration and Authentication: \_\_\_\_\_

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This is one of the bonds described in the within-mentioned Bond Ordinance, and this bond has been duly registered on the registration books kept by the undersigned as Registrar for such Bonds.

Village Treasurer (Finance Director) of the Village  
of Taos Ski Valley, New Mexico, as Registrar

\_\_\_\_\_

(End of Form of Registrar's Certificate of Authentication)

(Form of Assignment)

For value received, \_\_\_\_\_ hereby sells, assigns and transfers unto \_\_\_\_\_ the within bond and hereby irrevocably constitutes and appoints \_\_\_\_\_ attorney, to transfer the same on the books of the Registrar, with full power of substitution in the premises.

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

Signature Guaranteed:

\_\_\_\_\_

Name and address of transferee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Social Security or other tax  
identification number of  
transferee:

\_\_\_\_\_

NOTE: The signature to this Assignment must correspond with the name as written on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever. The signature must be guaranteed by an eligible guarantor institution as defined in 17 C.F.R. § 240.17 Ad-15(a)(2).

(End of Form of Assignment)

(Form of Installment Loan Panel)

PRINCIPAL ADVANCES

The undersigned Holder loaned to the Village of Taos Ski Valley, New Mexico, the respective amount of principal on the respective dates hereinafter designated, the sum of which amounts constitutes the aggregate principal amount of the within single bond, as follows:

Date of Loan	Amount of Loan	Amount of Amortized Annual Payments	Signature of Village Treasurer or Representative of Holder

(End of Form of Installment Loan Panel)

(Form of Mandatory Registration Panel)

MANDATORY REGISTRATION FOR PAYMENT AS TO PRINCIPAL AND INTEREST

The within bond is registered in the office of the Treasurer of the Village, as Registrar, in the name of the last owner listed below; and the principal amount of the bond and interest thereon shall be payable only to such owner, all in accordance with the ordinance of the Village authorizing the bond's issuance.

Date of Registration	Name of Owner	Address of Owner	Signature of Registrar

(End of Form of Registration Panel)

Council Member \_\_\_\_\_ then moved that said ordinance as filed with the Village Clerk at this meeting be passed and adopted. Council Member \_\_\_\_\_ seconded the motion.

The question being upon the passage and adoption of said ordinance, the roll was called with the following result:

Those Voting Aye:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Those Voting Nay:

\_\_\_\_\_

Those Absent:

\_\_\_\_\_

The presiding officer thereupon declared that at least 3/4ths of all the members of that Council having voted in favor thereof, the said motion was carried and the said ordinance duly passed and adopted.

After consideration of matters not relating to such Sewer Revenue Bonds, the meeting on motion duly made, seconded and unanimously carried, was adjourned.

\_\_\_\_\_  
Mayor

(SEAL)

Attest:

\_\_\_\_\_  
Clerk





4. Following the adoption of the ordinance, it was published by title and summary in the \_\_\_\_\_ on [\_\_\_\_], 2017, a copy of such affidavit of publication being attached hereto as Exhibit B.

WITNESS my hand and the official seal of the Village of Taos Ski Valley, New Mexico this [\_\_\_\_] day of November, 2017.

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Village Clerk

(SEAL)

EXHIBIT A

(Attach Affidavit of Publication of Notice Of Meeting  
and of Intention to Adopt the Ordinance)

EXHIBIT B

(Attach Affidavit of Publication of Ordinance By Title and  
General Summary After Adoption)