

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.

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Village Clerk

(SEAL)

(End of Form of Ordinance for Publication)

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

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Mayor

(SEAL)

Attest:

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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:

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---

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

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

I, Ann Marie Woolridge, the duly chosen, qualified and acting Clerk of the Village of Taos Ski Valley, New Mexico, do hereby certify:

1. The foregoing pages numbered from 1 to [ ], inclusive, are a true, perfect and complete copy of the record of the proceedings of the Council of the Village of Taos Ski Valley had and taken at an open special meeting of the Council held at Hondo Restaurant At Snakedance Condominiums, 110 Sutton Pl, Taos Ski Valley, NM 87525, in the Village on Tuesday, November 14, 2017 at the hour of 2:00 p.m., as far as the minutes relate to Ordinance No. 2018-64, a copy of which is therein set forth; the copy of the ordinance contained in the minutes is a full, true and correct copies of the original ordinance as introduced and passed by the Council at the meetings of October 30, 2017 and November 14, 2017 and has been duly authenticated by the signatures of the Mayor and myself, as Village Clerk, sealed with the corporate seal of the Village and made a part of the records of the Council. Such minutes insofar as they relate to the ordinance (i.e., pages 1 through [ ]) have been duly approved by the Council and are official.

2. The Mayor and other members of the Council were present at the meeting of the Council, all members of the Council present voted on the passage of the ordinances as set forth in the minutes, and the Mayor and all members of the Council were duly notified of the meeting.

3. (a) A Notice of Special Meeting and of Intention to Adopt the Ordinance was published by posting in six public places as provided by law on [\_\_\_\_\_, 2017] [and was published in the \_\_\_\_\_ (a legal newspaper which is of general circulation in the Village) on [\_\_\_\_\_, 2017] as evidenced by Exhibit A hereto; (b) no later than October [\_\_\_], 2017 (at least 24 hours prior to such meeting) such Notice of Intention to Adopt the Ordinance and Legal Notice were posted at:

Village of Taos Ski Valley) and remained so posted at least through such meeting, a copy of such notice as so posted being substantially in the same forms set forth in such Exhibit A; (c) notice of such meeting also was given by providing telephone notice to those broadcast stations licensed by the Federal Communications Council and newspapers of general circulation that have made a written request for notice of public meetings, all at least twelve hours prior to such meeting; and (d) personal notification of such special meeting was given to each member of the Council at least twelve hours prior to such special meeting (all in accordance with the Council's Resolution No. \_\_\_\_\_ adopted on \_\_\_\_\_, 20\_\_ relating to what constitutes reasonable notice of Council meetings).

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.

(SEAL)

---

Village Clerk

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)



## CONSTRUCTION LOAN DISBURSEMENT AGREEMENT

This **CONSTRUCTION LOAN DISBURSEMENT AGREEMENT** (this “**Agreement**”), is entered into as of [DATE], 2017, between **VILLAGE OF TAOS SKI VALLEY, NEW MEXICO**, a political subdivision existing under the laws of the State of New Mexico (“**Village**”), and **TIB THE INDEPENDENT BANKERSBANK, N.A.**, a national banking association (“**Bank**”).

### RECITALS:

WHEREAS, pursuant to Ordinance No. [ ] (the “**Ordinance**”), the Village has authorized and issued (or expects to issue) its Joint Water and Sewer System Draw Down Revenue Bond (Interim Bank Financing) in the principal amount (maximum amount drawable) of \$\_\_\_\_\_ (the “**System Revenue Bond**”) and its Gross Receipts Tax Revenue Bond (Interim Bank Financing) in the principal amount (maximum amount drawable) of \$\_\_\_\_\_ (the “**GRT Revenue Bond**”; the System Revenue Bond and GRT Revenue Bond are collectively referred to as the “**Bonds**”) for the purpose of financing improvements to and equipment for the wastewater treatment facility of the Village (collectively, the “**Project**”); and

WHEREAS, the Bank has agreed to make a loan to the Village through the purchase of the Bonds at par, with the purchase price to be made in the form of advances (each, an “**Advance**”) of principal (up to the maximum principal amount) of each Bond; and

WHEREAS, the Village and the Bank desire to set forth the terms and conditions upon which Advances on the Bonds are to be made;;

NOW, THEREFORE, for and in consideration of the mutual promises and covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Bank and Village agree as follows:

### **ARTICLE 1 DEFINITIONS.**

**1.1 Definitions.** Capitalized terms used herein shall, as applicable have the meanings provided (a) in the Recitals above, (b) in this Section 1.1 below, (c) elsewhere in this Agreement, or (d) in the Ordinance.

“**Bond Proceeds**” shall mean proceeds of the Bonds pending their disbursement to Village in accordance with Article 3 of this Agreement.

“**Completion Date**” shall mean [\_\_\_\_\_, 20\_\_\_], or such later date as may be agreed to by the Bank.

“**Construction Contract**” shall mean the agreement or agreements between the Village and its general contractor governing the construction of the Project.

“**Construction Documents**” shall mean the Construction Contract, the Plans and Specifications, and all other documents and agreements governing the construction or acquisition of the Project, as applicable.

**“Construction Schedule”** shall mean a schedule of events pertaining to the construction of the Project as reasonably anticipated by the Village.

**“Cost Saving”** shall mean, with respect to any line item, the amount of the undisbursed or saved portion thereof resulting from the fact that (i) the work attributable to such line item has been completed without the expenditure of all amounts in the Cost Breakdown allocated to such line item or (ii) Village shall have demonstrated to Bank’s satisfaction that such line item will be completed without the expenditure of all amounts allocated to such line items in the Cost Breakdown.

**“Development Costs”** shall mean all costs incurred by Village for the acquisition, construction, rehabilitation, development and/or equipping of the Project which may include costs of site preparation, costs of acquisition, construction, rehabilitation and installation, costs of labor and materials, costs of furnishings, fixtures and equipment, the costs of prints, appraisals, soil testing, surveys and other professional fees, costs, construction fees, taxes, insurance and bonding fees, marketing costs, initial lease up costs, interest, financing fees, and fees and costs related to the issuance of the Bonds.

**“Force Majeure”** shall mean a cessation of construction or rehabilitation caused by conditions beyond the control of Village, including, without limitation, acts of God or the elements, acts of war, acts of terrorism, fire, storm, earthquake, strikes, availability of labor or materials, and disruption of shipping.

**“Plans and Specifications”** shall mean the plans and specifications for the construction and/or rehabilitation, as the case may be, of the Project.

**“Property Jurisdiction”** shall mean the State of New Mexico, and as applicable, the County of Taos.

**“Requisition”** shall, with respect to a proposed Advance, mean a certificate in substantially the form attached hereto as Exhibit C.

**“Retainage”** shall mean the actual retainage withheld by the Village under the Construction Contract.

**“Substantial Completion Date”** shall mean the date that is three (3) months prior to the Completion Date.

**“Substantially Complete”** or **“Substantially Completed”** shall mean the Bank has determined that construction or rehabilitation, as the case may be, of the Project is sufficiently complete in accordance with the Construction Contract so that Village can occupy or utilize the Project for its intended use, as evidenced by the issuance of a temporary certificate of occupancy or equivalent issued by the appropriate Governmental Authority or an AIA G-704 2000 (Certificate of Substantial Completion).

**“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 USDA in an amount of up to \$8,300,000, on the terms described in the USDA Letter of Conditions.

“**USDA Letter of Conditions**” means the letter of conditions between USDA and the Village dated as of July 13, 2017 (as the same may be amended), under which USDA has agreed to provide permanent financing for the Project by acquiring from the Village the USDA Bonds.

**1.2 Accounting Terms.** For purposes of this Agreement, all accounting terms not otherwise defined herein or in the Recitals have the meanings assigned to them in conformity with GAAP consistently applied.

**1.3 Other Interpretive Provisions.** The titles and headings of articles, sections or subsections of this Agreement are intended for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

**ARTICLE 2 CONDITIONS PRECEDENT.** The initial closing of the issuance of the Bonds and the purchase thereof by the Bank and the making of the initial Advance (the “**Closing**”) is conditioned upon the Village’s delivery to Bank of the following documents:

**2.1** This Agreement, duly executed by Bank and Village;

**2.2** The original executed and authenticated Bonds;

**2.3** A certified copy of the Ordinance;

**2.4** A statement of anticipated sources and uses of funds for the Project in reasonable detail, including as sources Bond Proceeds and other funds available to the Village and expected to be applied to costs of the Project (“**Other Village Funds**”) and including as uses all Development Costs (the “**Cost Breakdown**”);

**2.5** Copies of the Construction Contract and Plans and Specifications (as and to the extent the same have been completed and/or executed, as applicable, and as reasonably requested by the Bank);

**2.6** A Construction Schedule;

**2.7** A written opinion from bond counsel for Village as to the authorization and validity of the Bonds; and

**2.8** Closing and tax certificates of the Village and its officers relating to the Bonds as may be requested by the Bank or bond counsel; and

**2.9** Such other documents, certificates and instruments as the Bank or bond counsel may reasonably require.

## **ARTICLE 3 DISBURSEMENTS.**

The proceeds of the Bonds and Other Village Funds shall be disbursed as follows:

**3.1 General Disbursement Conditions.** Bond Proceeds shall be advanced from time to time as Advances upon receipt by the Bank of a Requisition. Other Village Funds not expended on or before the Closing Date shall be maintained by the Village in a separate segregated fund or account and applied as necessary to Development Costs. Bond Proceeds and Other Village Funds required to pay Development Costs shall be disbursed and applied to Development Costs as and when provided in the Cost Breakdown in the manner hereinafter provided.

**3.2 Cost Breakdown; Timing of Advances; Reallocation; Cost Savings.**

3.2.1 Subject to the requirements of this Agreement, Bank shall approve and make Advances from time to time upon receipt of Requisitions in accordance with the Cost Breakdown.

3.2.2 Bank shall use commercially reasonable efforts to disburse Advances in accordance with (or disapprove) each Requisition within three (3) Business Days following receipt thereof; in the event that the Bank objects to any item in a Requisition, the Bank will disburse the remaining items in such Requisition pending resolution of the disputed item.

3.2.3 So long as the terms and conditions for a Disbursement have been satisfied, Village may, subject to any requisite approvals from USDA, reallocate funds allocated in the Cost Breakdown from any "Contingency" line item in an amount proportionate to the stage of completion of the construction or rehabilitation, as applicable, of the Project.

3.2.4 If a Cost Savings is realized with respect to any line item, Bank shall allow Village to reallocate the balance of the Bond Proceed or Other Village Funds allocable to such overbudgeted line item to a Contingency line item or any other underbudgeted line items for costs in respect of other uncompleted line items.

**3.3 Construction Advances.** Subject to the provisions of this Agreement, Village shall be entitled to Advances, within the limitations of the Cost Breakdown, of Bond Proceeds, upon submission of a corresponding Requisition.

**3.4 Retainage.** Bank will approve Advances to Village in an amount which, when added to all previous advances, will equal the Project costs due and payable by Village minus any applicable Retainage. Bank shall permit the release of Retainage upon satisfactions of the conditions to payment of such Retainage under the terms of the Construction Contract.

**3.5 Interest Line Items.** As applicable, Bank will approve Advances of the Bonds represented by interest line items as needed for the purpose of paying accrued interest as it comes due under the Bonds.

**3.6 Final Advance.** As to the final Advance of Bond Proceeds, Village shall have furnished to Bank confirmation in form satisfactory to the Bank that: (a) the Project is Substantially Complete, (b) all conditions to the release of any applicable Retainage still retained by the Village under the Construction Contract have been satisfied, and (c) the conditions to the funding of the USDA Bonds under the terms of the USDA Letter of Conditions have been satisfied (subject to those matters being satisfied through the application of the final Advance,

and those other conditions which are expected to be satisfied in connection with the issuance of the USDA Bonds to USDA.

**3.7 Approval of Advances.** Advances will only be made by Bank subject to Village's compliance with the terms and conditions of this Agreement and the Ordinance and the approval by the Bank of each Requisition (which approval will not be unreasonably withheld, conditioned or delayed as long as the Requisition complies with the requirements of this Agreement) [and the approval of such Requisition by USDA].

**3.8 Delivery of Requests for Advance.** Requests for Advance may be presented to Bank by, among other methods, telecopy or electronic delivery.

## **ARTICLE 4 CONSTRUCTION OF THE PROJECT.**

### **4.1 Commencement and Completion.**

4.1.1 Village shall cause construction of the Project to be prosecuted and completed with due diligence and in good faith, and without unreasonable delay, subject in all respects to Force Majeure.

4.1.2 The construction or rehabilitation, as the case may be, of the Project, shall be commenced as soon as reasonably practicable and shall be Substantially Completed in accordance with the terms and conditions of this Agreement on or prior to the Substantial Completion Date, subject in all respects to Force Majeure.

4.1.3 Village shall obtain all necessary permits required for the construction of the Project at or before the time or times such permits are required by applicable laws.

4.1.4 Village shall cause the Project to be constructed, rehabilitated, installed and equipped in a good and workmanlike manner in substantial accordance with the Plans and Specifications.

**4.2 Change Orders.** Without the prior written consent of Bank, which shall not be unreasonably withheld or delayed, Village shall not permit any material amendments or modifications of the Construction Documents including the Plans and Specifications. Notwithstanding the provisions of this Section 4.2, Village shall not be required to obtain Bank's consent to, or to deposit funds with Bank for, any individual change order with respect to the Project of \$\_\_\_\_\_ or less, provided the aggregate of all change orders for all the Project (including the change order at issue) does not exceed \$\_\_\_\_\_, unless such change order (a) results in an increase in the overall contract price by an amount greater than the remaining contingency reserve in the Cost Breakdown, (b) is inconsistent with the terms of the Letter of Conditions; or (c) substantially changes the Construction Schedule or the scope or design of the work.

**4.3 Rights of Inspection.** Bank shall have the right from time to time, upon reasonable advance notice during normal business hours (except in the case of an emergency, in which event such party shall have the right at any time without any advance notice), and subject to the rights of tenants, to enter upon the Project for purposes of inspection.

## ARTICLE 5 MISCELLANEOUS.

**5.1 Notices.** All notices and other communications hereunder shall be in writing and shall be delivered, if to the Bank, at [\_\_\_\_\_, Attn: \_\_\_\_\_], and if to the Village, at [\_\_\_\_\_, Attn: \_\_\_\_\_].

**5.2 Governing Law.** This Agreement shall be governed by and enforced in accordance with the laws of the Property Jurisdiction, without giving effect to the choice of law principles of the Property Jurisdiction that would require the application of the laws of a jurisdiction other than the Property Jurisdiction.

**5.3 Consent to Jurisdiction and Venue.** Village and Bank agree that any controversy arising under or in relation to this Agreement shall be litigated exclusively in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction shall have exclusive jurisdiction over all controversies which shall arise under or in relation to this Agreement. Village and Bank irrevocably consent to service, jurisdiction, and venue of such courts for any such litigation and waive any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

**5.4 Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate. The terms used to designate any of the parties herein shall be deemed to include the heirs, legal representatives, successors, successors-in-interest and assigns, as appropriate, of such parties. References to a "person" or "persons" shall be deemed to include individuals and entities.

**5.5 Severability.** The invalidity, illegality or unenforceability of any provision of this Agreement shall not affect the validity, legality or enforceability of any other provision, and all other provisions shall remain in full force and effect.

**5.6 Entire Agreement; Amendment and Waiver.** This Agreement contains the complete and entire understanding of the parties with respect to the matters covered. This Agreement may not be amended, modified or changed, nor shall any waiver of any provisions hereof be effective, except by a written instrument signed by the party against whom enforcement of the waiver, amendment, change, or modification is sought, and then only to the extent set forth in that instrument. No specific waiver of any of the terms of this Agreement shall be considered as a general waiver.

**5.7 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall constitute an original document and all of which together shall constitute one agreement.

**5.8 Captions.** The captions of the sections of this Agreement are for convenience only and shall be disregarded in construing this Agreement.

## **ARTICLE 6 INCORPORATION OF EXHIBITS.**

The following exhibits to this Agreement are fully incorporated herein:

Exhibit A Form of Requisition

The terms of this Agreement are modified and supplemented as set forth in said Exhibits. To the extent of any conflict or inconsistency between the terms of said Exhibits and the text of this Agreement, the terms of said Exhibits shall be controlling in all respects.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the undersigned have duly executed and delivered this Construction Loan Disbursement Agreement or caused this Construction Loan Disbursement Agreement to be duly executed and delivered by their respective authorized representatives as of the date first set forth above.

**VILLAGE:**

**VILLAGE OF TAOS SKI VALLEY, NEW MEXICO,**

By:



BANK:

[BANK]

By: \_\_\_\_\_

Name:

Title:

**EXHIBIT A**

**Form of Requisition**

To: [BANK]

Re: Village of Taos Ski Valley Wastewater Treatment Plan Project

Ladies and Gentlemen:

1. Capitalized terms used, but not defined, herein shall have the meanings set forth in that certain Construction Loan Disbursement Agreement, dated as of [DATE], 2017, by and between [BANK] (the “**Bank**”) and Village of Taos Ski Valley (“**Village**”).

2. You are requested to disburse proceeds of the Bonds in connection with the above-referenced Project in the amount(s), to the person(s) and for the purpose(s) set forth on Schedule I attached hereto and incorporated herein by reference. An invoice or other appropriate evidence of the obligations described on Schedule I is attached hereto.

Advance Number: \_\_\_\_\_

Amount: \_\_\_\_\_

Wire to: \_\_\_\_\_

3. The undersigned hereby certifies to Bank that:

(a) all conditions under the Agreement to the disbursement of the Advance requested hereby have been satisfied;

(b) all amounts for which this Advance has been requested are due and owing under the Construction Contract (or have been previously paid by the Village under the Construction Contract, to the extent the requested Advance is for reimbursement to the Village);

(c) the obligations stated on the requisition has been incurred in or about the acquisition, rehabilitation, construction or equipping of the Project and the obligation has not been the basis for a prior requisition that has been paid;

(d) the Village’s representations, warranties and expectations set forth in the Village’s Tax Certificate are reaffirmed and restated, and have been continuously complied with since the execution of the Agreement, and the same are true, correct and complete on the date hereof;

(e) enclosed are the documents and information, if any, required by Bank for this requested Advance.

**VILLAGE:**

**VILLAGE OF TAOS SKI VALLEY, NEW MEXICO,**

**By:**

Schedule I  
(to be attached by Village)