

RESOLUTION _____

A RESOLUTION OF THE BROADWATER COUNTY COMMISSIONERS PLEDGING TAX INCREMENT DERIVED FROM THE WHEATLAND TARGETED ECONOMIC DEVELOPMENT DISTRICT TO THE PAYMENT OF A TAX-INCREMENT REVENUE BOND TO BE ISSUED FOR THE PURPOSE OF FINANCING THE DESIGN AND CONSTRUCTION OF A SEWER SYSTEM TO BE OWNED AND OPERATED BY THE HEADWATERS UTILITY ASSOCIATION IN THE WHEATLAND TEDD, AND THE COSTS OF ISSUING SAID BOND.

BE IT RESOLVED by the Board of County Commissioners of Broadwater County, Montana as follows:

WHEREAS, the County is authorized, pursuant to County Ordinance No. 2019-B and Title 7, Chapter 15, Part 42, MCA, to pledge TIF revenues for the payment of debt service, in whole or in part, due on bonds issued to pay for TEDD projects;

WHEREAS, following a duly noticed regular meeting and pursuant to Resolution No. 2020-6 adopted March 6, 2020, the County approved the issuance of a limited obligation tax increment financing bond to finance the construction of a sewage treatment facility, sewer lines, and costs of issuing the bonds (the “Project”) as a tax increment finance (“TIF”) project of the Wheatland Targeted Economic Development District (the “Wheatland TEDD”);

WHEREAS, the County declared in Resolution No. 2020-6 that upon presentment by the Wheatland Water and Sewer District (the “District”) of final terms for such TIF-secured bonds, the County would then provide final approval of the proposed TIF-secured bond sale as part of a resolution concurring in the issuance of such TIF-secured bonds and pledging TIF revenues to the payment of principal and interest due thereon;

WHEREAS, the District had secured a Letter of Commitment from the Bank of Red Lodge, a Branch of Bank of Bridger, N.A., committing to lend \$1,000,000 to finance a portion of the District’s sewer Project at an interest rate of 4.5%, with a 20 year term, interest only payments for the first 18 months, and thereafter annual payments of principal and interest totaling \$79,840 (the “Revenue Bond”);

WHEREAS, the County passed Resolution No. 2020-12 pledging the tax increment derived from the Wheatland TEDD in an annual amount of up to \$79,840 for the payment of the Revenue Bond;

WHEREAS, a condition precedent to closing on the Revenue Bond was the District receiving a grant from the U.S. Economic Development Administration (the “E.D.A.”) for the remaining cost of construction of the Project;

WHEREAS, the E.D.A. denied the District’s grant application to fund the remaining cost of construction for the Project;

WHEREAS, in order to obtain construction financing and a long-term bond commitment to finance the Project, the District had to reform as the Headwaters Utility Association (the “Association”) a private non-profit corporation.

WHEREAS, Barnard Construction of Bozeman, Montana has agreed to provide construction financing for the entire estimated \$6 million construction cost of the Project to the Association;

WHEREAS, Citizens Alliance Bank of Great Falls, Montana, has issued a finance letter dated June 25, 2021, stating its interest in financing a revenue bond secured by the TIF of the Wheatland TEDD and other Association revenues (the “TIF Bond”) for \$6 million to pay off the construction loan being provided by Barnard Construction to the Association upon maturity of the construction loan which shall be two years from the date of issuance of the construction loan (estimated to be July, 2023);

WHEREAS, the TIF Bond shall be amortized over 25 years, shall be at an interest rate of Wall Street Prime + 1% adjusted every five years, with monthly payments currently estimated at \$33,000;

WHEREAS, the Association has agreed to act as guarantor of the TIF Bond and shall pay any deficiency amount between the available Wheatland TEDD tax increment and the annual debt service due on the TIF Bond such that the County shall in no event be required to contribute any funds other than the TIF funds herein pledged for payment on the TIF Bond; and

WHEREAS, the County finds that the Association’s Project to be financed by the TIF Bond is in the best interest of the properties located within the Wheatland TEDD, is consistent with the Broadwater County Wheatland Targeted Economic Development District Comprehensive Development Plan which was adopted in County Ordinance No. 2019-B, and wishes to proceed with the Project.

NOW, THEREFORE BE IT RESOLVED, by the County Commissioners of the County of Broadwater, Montana (the “County”) as follows:

Section 1. Revocation of TIF Pledge to Wheatland W&S District. The County revokes the Pledge of Wheatland TEDD TIF funds to Wheatland Water and Sewer District made in County Resolution No. 2020-12 on the grounds that a condition precedent to issuing the Revenue Bond to be paid by that pledge failed when the E.D.A. denied a grant application to fund the remaining costs of Project construction.

Section 2. New Pledge of Wheatland TEDD TIF Revenues. The County, pursuant to § 7-15-4290(1), MCA and County Ordinance No. 2019-B hereby pledges the tax increment derived from the Wheatland Targeted Economic Development District in an annual amount of up to \$396,000 for the payment of the TIF Bond to be issued to finance the design and construction of the Project which shall be an Association-owned and operated sewer system, and the costs of issuing said TIF Bond pursuant to the terms detailed in the Financing Letter attached hereto as

Exhibit A and subject to the terms and conditions as shall be detailed in the final Bond Resolution to be passed at the time of closing on the TIF Bond upon maturity of the two-year construction loan being issued by Barnard Construction to construct the Project. The County will not, in any event, act as a guarantor or surety of the TIF Bonds. The County expressly disclaims any implication that by adopting this Resolution it is agreeing to make the optional covenant for the security of the bondholders allowed for in § 7-15-4290(2), MCA. The County further resolves that, pursuant to § 7-15-4290(3), MCA, the TIF Bond shall be a limited obligation payable exclusively from pledged Wheatland TEDD tax increment funds—no other County funds may be applied to the payment the TIF Bond.

Section 3. Duration of TIF Pledge. This pledge shall be binding on the County and remain in full force and effect until the County has received written confirmation from Citizens Alliance Bank that the TIF Bond has been paid in full. Upon redemption of the TIF Bond, this pledge of Wheatland TEDD tax increment funds shall be dissolved and said funds available to any other allowable tax increment project of the Wheatland TEDD.

Section 4. Association Covenant. This pledge of TIF funds is given in reliance upon the Association’s covenant and warranty that its conduct of business shall, in all ways, comply with the laws of the State of Montana and of the United States of America.

Section 5. Notification of Pledge. The County Clerk and Recorder is instructed to provide a copy of this Resolution No. ___ to the Montana Department of Revenue.

Passed and adopted this ___ day of _____, 2021, by the Broadwater County Commission.

BOARD OF COUNTY COMMISSIONERS
BROADWATER COUNTY

_____, Chairman

ATTEST:

Doug Ellis, Clerk & Recorder/Treasurer

