

A RESOLUTION AMENDING A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$924,700 PRINCIPAL AMOUNT OF SEWERAGE SYSTEM REVENUE BONDS (STATE OF MISSOURI – DIRECT LOAN PROGRAM – ARRA) SERIES 2009 OF THE BOONE COUNTY REGIONAL SEWER DISTRICT; AND PRESCRIBING OTHER RELATED MATTERS

WHEREAS, the Boone County Regional Sewer District (the “District”), is a public sewer district organized and existing under the constitution and laws of the State of Missouri; and

WHEREAS, the District now owns and operates a revenue producing sewerage system, serving the District, its inhabitants and others within its service area, including connected and related appurtenances and facilities and extensions, improvements, additions and enlargements made or acquired by the District after the date of this Resolution (the “System”); and

WHEREAS, pursuant to a resolution adopted by the Board of Trustees (the “Governing Body”) of the District on December 22, 2009 (the “Series 2009 Bond Resolution”), the District issued its Sewerage System Revenue Bonds (State of Missouri – Direct Loan Program – ARRA) Series 2009, in the original principal amount of not to exceed \$924,700, dated December 29, 2009 (the “Bonds”), for the purpose of providing funds to extend and improve the System; and

WHEREAS, the District hereby finds that it is necessary and advisable to amend the Series 2009 Bond Resolution as provided herein; and

WHEREAS, Section 1101 of the Series 2009 Bond Resolution authorizes amendments to the Series 2009 Bond Resolution with the prior written consent of the owner of the Bonds; and

WHEREAS, the Missouri Department of Natural Resources (“DNR”), as the sole registered owner of the Bonds, has consented to the amendments to the Series 2009 Bond Resolution set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE BOONE COUNTY REGIONAL SEWER DISTRICT, AS FOLLOWS:

Section 1. Definition of Words and Terms.

(a) Capitalized terms used herein and not otherwise defined or modified herein shall have the meanings assigned to such terms in the Series 2009 Bond Resolution.

(b) Section 101 of the Series 2009 Bond Resolution is hereby amended by inserting the following definitions:

“Accumulated Revenues” means, for any fiscal year, the amount of funds on deposit in the Budget Stabilization Account and designated by resolution of the Governing Body of the District to be used to pay debt service on the Bonds and any Outstanding System Revenue Bonds, respectively, and/or the Current Expenses of operating and maintaining the System for such fiscal year.

“BABs Interest Subsidy Payments” means any payments to be received by the District from the U.S. Department of the Treasury under Section 54AA or Section 6431 of the Internal Revenue Code of 1986, as amended, in connection with the payments of interest on System Revenue Bonds.

“Budget Stabilization Account” means the account designated as such and created in Section 401.

“Subsidy Payments” means the BABs Interest Subsidy Payments, the SRF Subsidy and any similar interest subsidy payments provided through a federal or State program that reduces the interest expense on System Revenue Bonds during the applicable calculation period.

Section 2. Establishment of the Budget Stabilization Account. Section 401 of the Series 2009 Bond Resolution is hereby amended by inserting the following subsection (c):

Section 401. Ratification and Establishment of Funds and Accounts.

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(c) The District hereby establishes in the treasury of the District the Budget Stabilization Account, which will be maintained and administered by the District under this Resolution while any of the Bonds and the System Revenue Bonds are Outstanding.

Section 3. Application of Moneys in Funds and Accounts. Section 502 of the Series 2009 Bond Resolution is hereby amended and restated as follows:

Section 502. Application of Moneys in Funds and Accounts.

(a) The District will apply moneys in the Revenue Fund on the dates, in the amounts and in the order as follows:

(1) *Operation and Maintenance Account.* On the first day of each month, to the Operation and Maintenance Account an amount sufficient to pay the estimated cost of operating and maintaining the System during the month, which amount shall include (i) on the dates required by the Outstanding Parity Bond Resolution, the amounts required to pay the fees described in the Outstanding Parity Bond Resolution, if any, and (ii) on the dates required by Section 211, transfers to the Paying Agent for further deposit to the Administrative Expense Fund, the amounts required to pay the Administrative Fee and the Paying Agent’s Fees and expenses;

(2) *Repayment Fund and Debt Service Account.* On a parity basis (i) at the times required under the Outstanding Parity Bond Resolution, to the Outstanding Parity Bond Debt Service Account the amount required under the Outstanding Parity Bond Resolution and (ii) by the Funds Transfer Method, on each Quarterly Payment Date, to the Paying Agent for credit to the Interest Account and the Principal Account:

(A) to the Interest Account, on March 15, 2010 and each Quarterly Payment Date thereafter, 1/2 of the amount of interest due on the Bonds on the next Interest Payment Date, with the balance in the Debt Service Fund and the Interest Account on an Interest Payment Date after the payment of the principal of and interest due on the Bonds on the

Interest Payment Date to be credited against the next succeeding quarterly payment; provided that prior to the Completion of Funding,

(i) the investment earnings on the Construction Fund for the preceding calendar quarter will be credited against the next quarterly payment,

(ii) for purposes of the first quarterly payment of each Interest Period, the amount of interest due on the next Interest Payment Date will be estimated based upon an expected disbursement schedule for the Interest Period provided by the District to DNR and the Paying Agent, and

(iii) for purposes of the second quarterly payment of each Interest Period, the interest due on the next Interest Payment Date will be calculated by the Paying Agent based upon Purchase Price Installments funded at least three Business Days prior to the Quarterly Payment Date and the second quarterly payment calculated so that the amount on deposit in the Interest Account after receipt of the second quarterly payment will equal interest payable on the Bonds on the Interest Payment Date; and

(B) to the Principal Account, on March 15, 2011 and each Quarterly Payment Date thereafter, 1/2 of the principal due on the Bonds on the next succeeding Principal Payment Date, whether at Stated Maturity or upon mandatory sinking fund redemption. If the Initiation of Operations specified in the certificate delivered by the District under Section 3.5 of the Purchase Agreement is earlier than the expected Initiation of Operations, (i) the first quarterly installment of principal of the Bonds will be paid no later than the Quarterly Payment Date which is not more than 12 months after the Initiation of Operations, and (ii) on the Quarterly Payment Date which is not more than 20 years after the Initiation of Operations, all remaining unpaid principal installments of the Bonds will be paid;

(3) *Debt Service Reserve Account.* At the times required under the Outstanding Parity Bond Resolution, to the Outstanding Parity Bond Debt Service Reserve Account the amount required under the Outstanding Parity Bond Resolution;

(4) *Depreciation and Replacement Account.* To the Depreciation and Replacement Account, the amounts on the dates required by the User Charge Resolution;

(5) *Budget Stabilization Account.* On the first day of each month, to the Budget Stabilization Account, an amount equal to no less than 1/12th of the annually designated amount of Accumulated Revenues as established by resolution of the Governing Body of the District until the amount on deposit in said account aggregates the annually designated amount of Accumulated Revenues; and

(6) *Surplus Account.* At the times required under the Outstanding Parity Bond Resolution or, after the date on which the Outstanding Parity Bonds are no longer outstanding, on each Quarterly Payment Date, the remaining balance to the Surplus Account.

(b) Except as provided in Section 503, moneys in the Depreciation and Replacement Account will be used by the District for the purpose of making replacements and repairs to the System in order to keep the System in good repair and working order and to assure the continued effective and efficient operation of the System.

(c) Moneys in the Surplus Account are to be expended for the following purposes as determined by the Governing Body:

(1) paying the cost of the operation, maintenance and repair of the System to the extent necessary after the application of the moneys held in the Operation and Maintenance Account;

(2) paying the cost of extending, enlarging or improving the System;

(3) preventing default in, anticipating payments into or increasing the amounts in the accounts confirmed or established in Section 401, the Principal Account, the Interest Account, the Budget Stabilization Account or the Depreciation and Replacement Account, or establishing or increasing the amount of any debt service account or debt service reserve account created by the District for the payment of any System Revenue Bonds subsequently issued; or

(4) redeeming and paying prior to Stated Maturity, or, at the option of the District, purchasing in the open market at the best price obtainable not exceeding the call price (if any bonds are callable), the Bonds, the Outstanding Parity Bonds or any other System Revenue Bonds hereafter issued under the conditions hereinafter specified and standing on a parity with the Bonds, including principal, redemption premium, if any, and interest.

(d) All amounts paid and credited to the Operation and Maintenance Account will be expended solely for the purpose of paying the Current Expenses of the System.

(e) No moneys derived by the District from the System will be diverted to the general governmental or municipal functions of the District.

(f) If the deposits to the Operation and Maintenance Account (the “OM Deposits”) required under this Section are greater than the OM Deposits required in the User Charge Resolution, the OM Deposits under the User Charge Resolution will be deemed a credit toward OM Deposits required under this Section. If the OM Deposits required under this Section are less than those required in the User Charge Resolution, OM Deposits under this Section will be deemed a credit to OM Deposits required under the User Charge Resolution.

Section 4. Deficiency of Payments into Funds and Accounts. Section 503 of the Series 2009 Bond Resolution is hereby amended and restated as follows:

Section 503. Deficiency of Payments into Funds and Accounts.

(a) If the Revenues are insufficient to make any payment on any date specified in this Article, the District will make good the amount of the deficiency by making additional payments out of the first available Revenues for application in the order specified in Section 502.

(b) If the moneys in the Outstanding Parity Bond Debt Service Account, the Outstanding Parity Bond Debt Service Reserve Account, the Principal Account, the Interest Account and the Budget Stabilization Account are not sufficient to pay the principal of and interest on the Outstanding Parity Bonds and the Bonds as and when the same become due, the District will apply moneys in the Surplus Account and the Depreciation and Replacement Account on a proportionate basis (based upon the outstanding principal amounts of the Bonds and the Outstanding Parity Bonds) to the Outstanding Parity Bond Debt Service Account, the Principal Account and the Interest Account to prevent any default in the payment of the principal of and interest on the Outstanding Parity Bonds and the Bonds.

Section 5. Transfer of Funds to Paying Agent. Section 504 of the Series 2009 Bond Resolution is hereby amended and restated as follows:

Section 504. Transfer of Funds to Paying Agent. The Chairman of the Board of Trustees or the Secretary is authorized and directed to make the payments to the Principal Account and the Interest Account as provided in Section 502 (which authorization includes withdrawals from the Budget Stabilization Account, and, to the extent necessary to prevent a default in the payment of the Bonds, withdrawals from the Surplus Account and from the Depreciation and Replacement Account as provided in Sections 502 and 503), sums sufficient to pay the Bonds when due, and to forward amounts to the Paying Agent by the Funds Transfer Method which ensures the Paying Agent will have sufficient available funds on or before the second Business Day immediately preceding the dates when payments on the Bonds are due. Upon the payment of all principal and interest on the Bonds, the Paying Agent will return any excess funds to the District. Except as otherwise provided in the Escrow Agreement, all moneys deposited by the District with the Paying Agent are subject to the provisions of this Resolution.

Section 6. Rate Covenant. Section 702 of the Series 2009 Bond Resolution is hereby amended and restated as follows:

Section 702. Rate Covenant. The District will fix, establish, maintain and collect rates, fees and charges for the use and services furnished by or through the System to produce income and revenues sufficient to (a) pay the costs of the operation and maintenance of the System; (b) pay the principal of and interest on the Bonds as and when due; (c) enable the District to have in each Fiscal Year Net Revenues plus Accumulated Revenues, if any, of not less than 110% of the amount required to be paid by the District in the Fiscal Year on account of both principal of and interest on all System Revenue Bonds at the time outstanding, provided that (i) interest on any System Revenue Bonds will be reduced by Subsidy Payments, if any, and (ii) principal and/or interest on any System Revenue Bonds will be reduced by amounts deposited in trust or escrowed for the payment

thereof with the Owner or commercial bank or trust company located in the State of Missouri having full trust powers and acting as trustee or escrow agent and that are reasonably expected to be used for the payment of principal and/or interest on any System Revenue Bonds during the calculation period; and (d) provide reasonable and adequate reserves for the payment of the Bonds and the interest thereon and for the protection and benefit of the System as provided in this Resolution. The District will require the prompt payment of accounts for service rendered by or through the System and will promptly take whatever action is legally permissible to enforce and collect delinquent charges. Each Fiscal Year, the District shall review the rates, fees and charges for the use and services furnished by or through the System and revise such rates, fees and charges as necessary to ensure that the System generates Net Revenues sufficient to meet the requirements of this Section, taking into consideration available Accumulated Revenues, if any.

Section 7. Parity Lien Bonds or Obligations. Section 802 of the Series 2009 Bond Resolution is hereby amended and restated as follows:

Section 802. Parity Lien Bonds or Obligations.

(a) The District will not issue any additional bonds or other long-term obligations payable out of the Net Revenues of the System that stand on parity or equality with the Bonds unless the following conditions are met:

(1) the District is not in default in the payment of principal or interest on the Bonds or any Parity Bonds or in making any deposit into the funds and accounts under this Resolution or any Parity Resolution; and

(2) the District provides to the Owner a certificate showing either of the following:

(A) the average annual Net Revenues plus Accumulated Revenues, if any, as set forth in the two most recent annual audits for Fiscal Years preceding the issuance of additional bonds, are at least 110% of the average annual debt service on the System Revenue Bonds, including the additional bonds proposed to be issued, to be paid out of the Net Revenues in all succeeding Fiscal Years. Interest to be paid on any System Revenue Bonds will be reduced by Subsidy Payments, if any. Principal and/or interest to be paid on any System Revenue Bonds will be reduced by amounts deposited in trust or escrowed for the payment thereof with the Owner or commercial bank or trust company located in the State of Missouri having full trust powers and acting as trustee or escrow agent and that are reasonably expected to be used for the payment of principal and/or interest on any System Revenue Bonds during the calculation period. If the District has made any increase in rates for the use and services of the System and the increase has not been in effect during all of the two Fiscal Years for which annual audits are available, the District may add to the audited Net Revenues the additional Net Revenues that would have resulted if the rate increase had been in effect for the entire period, as certified by a Consultant; or

(B) the estimated average annual Net Revenues for the two Fiscal Years immediately following the issuance of the additional bonds

or, if improvements are to be made to the System with the proceeds of the additional bonds, for the two Fiscal Years immediately following the Fiscal Year in which the improvements to the System being financed by the additional bonds are to be in commercial operation, as certified by a Consultant, plus Accumulated Revenues, if any, as set forth in the most recent annual audit for the Fiscal Year preceding the issuance of additional bonds, is at least 110% of the average annual debt service on the System Revenue Bonds, including the additional bonds proposed to be issued, to be paid out of the Net Revenues in succeeding Fiscal Years following the commencement of commercial operation of the improvements. Interest to be paid on any System Revenue Bonds will be reduced by Subsidy Payments, if any. Principal and/or interest to be paid on any System Revenue Bonds will be reduced by amounts deposited in trust or escrowed for the payment thereof with the Owner or commercial bank or trust company located in the State of Missouri having full trust powers and acting as trustee or escrow agent and that are reasonably expected to be used for the payment of principal and/or interest on any System Revenue Bonds during the calculation period. In determining the amount of estimated Net Revenues for the purpose of this subsection, a Consultant may adjust the estimated net income and revenues by adding the estimated increase in Net Revenues resulting from any increase in rates for the use and services of the System approved by the District and to become effective during the two Fiscal Years immediately following the Fiscal Year in which the improvements to the System being financed by the additional bonds are to be in commercial operation.

(b) If the conditions set forth in this Section are satisfied, the District (i) may issue additional revenue bonds or other obligations of the District on a parity with the Bonds and that enjoy complete equality of the lien on the Net Revenues with the Bonds, (ii) may make equal provision for paying the additional revenue bonds or other obligations from the Revenue Fund, and (iii) may secure the additional revenue bonds or other obligations by funding reasonable System debt service accounts and debt service reserve accounts from the Net Revenues.

Section 8. Ratification of Series 2009 Bond Resolution. Except as otherwise provided in this Resolution, the provisions of the Series 2009 Bond Resolution are hereby ratified, approved and confirmed.

Section 9. Further Authority. The officers of the District, including the Chairman of the Board of Trustees, the Secretary of the Board of Trustees, the General Manager and the District Manager, Finance & Administration, are authorized and directed to execute all documents and take the actions as are necessary or advisable in order to carry out and perform the purposes of this Resolution and to make ministerial changes in the documents approved by this Resolution which they may approve. The execution of any document or taking of any related action constitutes conclusive evidence of the necessity or advisability of the action or change.

Section 10. Electronic Transactions. The transactions described in this Resolution and the Bonds may be conducted and related documents may be stored, received and delivered by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

Section 11. Severability. If any section or other part of this Resolution is for any reason held invalid, the invalidity will not affect the validity of the other provisions of this Resolution.

Section 12. Governing Law. This Resolution is governed by and will be construed in accordance with the laws of the State.

Section 13. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the Governing Body.

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PASSED by the Board of Trustees of the Boone County Regional Sewer District, this 21st day of June, 2022.

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Chairman of the Board of Trustees

(SEAL)

ATTEST:

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Secretary of the Board of Trustees

[2009]