

CERTIFICATE AS TO ORDINANCE AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Big Sky County Water & Sewer District No. 363, Montana (the "District"), hereby certify that the attached ordinance is a true copy of an Ordinance entitled: "An Ordinance Of The Big Sky County Water & Sewer District No. 363, Montana, Granting The Petition of HF Powderlight South LLC to annex HF Powderlight South LLC Land into the Big Sky County Water and Sewer District No. 363" (the "Ordinance"), on file in the original records of the District in my legal custody; that the Ordinance was duly adopted by the Board of Directors of the District at a regular meeting on September 21, 2021 and that the meeting was duly held by the Board of Directors and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance at said meeting, the following Directors voted in favor thereof: Mike Ducuennois, Peter Manka, Brian Wheeler & Mike Wilcynski ; voted against the same: Dick Fast, Tom Reeves & Bill Shropshire ; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand and seal officially this 21st day of September, 2021.



Dick Fast, Secretary

**BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363**  
**ORDINANCE 21-1002**

Adopted: September 21, 2021

AN ORDINANCE OF THE BIG SKY COUNTY WATER & SEWER DISTRICT NO. 363, MONTANA, GRANTING THE PETITION OF HF POWDERLIGHT SOUTH LLC TO ANNEX HF POWDERLIGHT SOUTH LLC LAND INTO THE BIG SKY COUNTY WATER AND SEWER DISTRICT NO. 363

BE IT ordained by the Board of Directors (the “Board”) of the Big Sky Water & Sewer District No. 363, Montana (the “District”) as follows:

**Section 1. Recitals and Findings.**

- 1.01. The District has received a petition from the HF POWDERLIGHT SOUTH, LLC a Montana limited liability company (“the Petitioner”) requesting the addition of certain lands more particularly described in Section 1.03 below to the District, which petition has been determined and certified to meet the requirements of the Title 7, Chapter 7, Parts 22 and 23, Montana Code Annotated.
- 1.02. The District Board determined that the land is contiguous to the District boundary, and that addition of the land to the District, as requested in the petition, is in the best interest of the District.
- 1.03. The Petitioner has a development interest in the tracts of certain real property (“Subject Property”), hereinafter referred to as the HF Powderlight South property and described as follows:
  1. Parcel I: Tract 1, of Certificate of Survey No. 1858, located in the SW1/4 of Section 31, Township 6 South, Range 4 East, P.M.M., Gallatin County, Montana. (Tax Parcel No. RKF18836); and Tract 2B-1, of Correction Certificate of Survey No. 1858B, located in the SW1/4 of Section 31, Township 6 South, Range 4 East, P.M.M., Gallatin County, Montana, (Tax Parcel No. RKF41292); and
  2. Parcel II: Tract B, of Certificate of Survey No. 2459, located in Section 31, Township 6 South, Range 4 East, P.M.M., Gallatin County, Montana. (Tax Parcel No. RKF65235)
- 1.04. The District Board determined that the addition of the land to the District, as requested in the petition, is in the best interest of the environment and the water and sewer service areas of the District.
- 1.05. Pursuant to the First Amended and Restated Interlocal Agreement between Big Sky County Water and Sewer District No. 363, and Big Sky Resort Area District dated April 20, 2021 (Interlocal Agreement) the water resource

recovery facility (WRRF) upgrade and expansion, which is currently contracted to occur, the District will have greater capacity than required to meet the needs of the current District upon completion of the WRRF Phase 1 construction. Owner acknowledges that the service capacity will not be available until the WRRF Phase I Project as defined in the Interlocal Agreement is completed. Further Owner stands ready and willing to execute such documentation that direct physical service and treatment will not be sought for the property until the WRRF Phase 1 construction is complete.

- 1.06. The District will establish the maximum numbers of Single Family Equivalents (SFEs) that will be allocated to build-out density on the annexed property.
- 1.07. As a condition of the Annexation Agreement, the Petitioner and its successors in interest and assigns agrees to:
  1. Landowners agree to pay all general obligation bond tax levy costs in accordance with the rules and regulations of the District. This levy will be effective the first year that the Subject Property is annexed into the District.
  2. Petitioner agrees to not hook up service for the 25 SFEs until the earlier of:
    - a. Completion of the new wastewater treatment plant; or
    - b. August 1, 2023
  3. In the event Petitioner, together with the Big Sky Community Housing Trust, does not receive its pending Low Income Housing Tax Credit (LIHTC) grant, Petitioner will release the twenty-five (25) SFEs to the District, without compensation.
  4. Petitioner agrees to abandon the on-site wastewater treatment and disposal drainfield system in accordance with county and state rules and regulations after the project has been connected to the public sewer system.
  5. Petitioner agrees to indemnify and to hold the District harmless against any claims made against the District for lost damages concerning the development of the annexed lands.
- 1.08. Section 7-13-2341, Montana Code Annotated, District may grant the petition by adoption of an ordinance upon the finding that the District will have sufficient capacity to serve the property as set forth herein or the Board may decide to submit it to the electors of the District as well as to the electors of the proposed addition.

At the meeting held on June 22, 2021, the Board for the District made the following decision regarding process for annexation: The District will have sufficient capacity to serve the property as set forth herein. The District will provide information and notice of a public meeting seeking public and electorate input regarding an election as well as information regarding the timing of holding an election and available federal funding for work force housing projects.

**Section 2. Addition of the Property.** The boundaries of the District are hereby modified to include the subject property as shown on map **Exhibit A**.

**Section 3. Effect of the Addition of Property to the District.** Upon the filing of the certificate of approval of the Ordinance, the territory described above shall be a part of the District and shall be included in the both the Water System Jurisdictional Area and the Sewer System Jurisdictional Area and shall be subject to all the rules, regulations, ordinance fees, charges, taxes levied or imposed against other property of the District, and posses the rights, privileges and powers set forth in Title 7, Chapter 13, Part 22 and 23, Montana Code Annotated.

**Section 4. Instructions to Secretary; Filing.** If the Ordinance is approved, the President and Secretary of the Board are hereby directed to certify that fact to the Secretary of State and the County Clerk and Recorder and request that the Secretary of State issue a certificate that the Ordinance has been approved and the territory has been added to the District. The Secretary of State shall transmit the certificate to the County Clerk and Recorder for filing, upon which the territory is deemed added to the District.

Passed and approved this 21<sup>st</sup> day of September , 2021 .



Tom Reeves  
President, Board of Directors

ATTEST:

  
Dick East  
Secretary

EXHIBIT A

Map of lands petitioned to be annexed

