

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the City), hereby certify that the attached resolution is a true copy of Resolution No. \_\_\_\_\_, entitled: **RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1417; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND** (the "Resolution") was duly adopted by the City Council of the City at a meeting on April 12, 2021; that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Councilmembers voted in favor thereof: \_\_\_\_\_;  
voted against the same: \_\_\_\_\_;  
or were absent: \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Denise Bohlman  
City Clerk

RESOLUTION NO. 21-\_\_\_\_\_

RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1417; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

BE IT RESOLVED by the City Council of the City of Billings, Montana (the "City"), as follows:

Section 1. Proposed Improvements; Intention to Create District. The City proposes to undertake certain local improvements along Elysian Road and within Annafeld Subdivision 3<sup>rd</sup> Filing and Annafeld North 1<sup>st</sup> Filing as more particularly described herein (the "Improvements") to benefit certain properties located in the City as more particularly described herein. The costs of the Improvements are to be assessed as more particularly described herein. It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, Special Improvement District No. 1417 (the "District") for the purpose of undertaking the Improvements and assessing the properties in the District for the costs thereof.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1417 of the City of Billings, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as Exhibit A hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on Exhibit B hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A list of each of the properties in the District is shown on Exhibit F hereto (which is hereby incorporated herein and made a part hereof) and each of the property owners in the District is shown on Exhibit D hereto. The Annafeld Subdivision is coterminous with the boundaries of the District.

Section 4. General Character of the Improvements. The general character of the Improvements, as shown in Exhibit E, consists of the construction and installation of streetlights and park improvements within the District.

Section 5. Engineer and Estimated Costs of the Improvements. The Engineer for the Improvements is Sanderson Stewart. The engineering design and construction administration is not funded by the SID. The Engineer has estimated that the costs of the Improvements (including engineering, design and construction administration costs) are \$2,170,000 and more particularly described on Exhibit C hereto (which is hereby incorporated herein and made a part hereof) and such costs have been reviewed by the City's Public Works Department. Costs of the Improvements include costs of the construction and installation of the Improvements, costs for the creation of the District, costs of funding a deposit to the City's Special Improvement District Revolving Fund (the "Revolving

Fund”), costs associated with the sale of the Bonds (as hereinafter defined), and all other incidental costs (including engineering, design and construction administration costs).

Section 6. Property to be Assessed; Assessment Methodologies.

6.1. Property to be Assessed. The properties in the District will benefit from, and be benefited by, the Improvements and will be assessed for costs of the Improvements as specified in Sections 6 and 7. Costs of the Improvements shall be assessed against the property in the District based on the area option method described in Section 7-12-4162, M.C.A., as particularly applied and set forth in this Section 6.

6.2 Assessment Methodologies.

Assessment #1 Area Option Method. Each property within the District will be assessed for that portion of the total costs of the Elysian Road Improvements that the assessable area of such property bears to the total assessable area of all properties in the District. The total assessable area of all properties to be assessed is 2,512,924 square feet. The costs of the Improvements to be assessed against properties in the District, per square foot of assessable area, are estimated to be \$.64864. If an increase occurs in the number of properties within the boundaries of the District (due to the subdivision of any one or more properties or otherwise) during the term of the Bonds, the assessment per property then in the District will be recalculated as provided in M.C.A. 7-12-4162(3)(b).

Assessment #2 Area Option Method. Each property within Annafeld 3<sup>rd</sup> Filing will be assessed for that portion of the total costs of the Streetlight Improvements that the assessable area of such property bears to the total assessable area of all properties in Annafeld 3<sup>rd</sup> Filing. The total assessable area of all properties to be assessed is 1,387,594 square feet. The costs of the Improvements to be assessed against properties in the District, per square foot of assessable area, are estimated to be \$.290319. If an increase occurs in the number of properties within the boundaries of the District (due to the subdivision of any one or more properties or otherwise) during the term of the Bonds, the assessment per property then in the District will be recalculated as provided in M.C.A. 7-12-4162(3)(b).

Assessment #3 Area Option Method. Each property within Annafeld North 1<sup>st</sup> Filing will be assessed for that portion of the total costs of the Streetlight Improvements that the assessable area of such property bears to the total assessable area of all properties in Annafeld North 1<sup>st</sup> Filing. The total assessable area of all properties to be assessed is 381,881 square feet. The costs of the Improvements to be assessed against properties in the District, per square foot of assessable area, are estimated to be \$.359201. If an increase occurs in the number of properties within the boundaries of the District (due to the subdivision of any one or more properties or otherwise) during the term of the Bonds, the assessment per property then in the District will be recalculated as provided in M.C.A. 7-12-4162(3)(b).

6.3. Assessment Methodologies Equitable and Consistent With Benefit. This Council hereby determines that the method of assessment and the assessment of costs of the Improvements against the properties in the District as prescribed in this Section 6 are equitable and in proportion to and not exceeding the special benefits derived from the Improvements by the properties to be assessed therefor. In addition, the Subdivision Improvements Agreement for the Annafeld Subdivision provides that the streetlight and park improvements will be borne by the landowners through either a private contract or the creation of a Special Improvement District.

Section 7. Payment for Improvements. Costs of the Improvements are to be paid from the proceeds of Special Improvement District Bonds (the "Bonds") in an aggregate principal amount not to exceed \$2,170,000.00.

Section 8. Bond Financing; Pledge of Revolving Fund; Findings and Determinations. The Bonds will be repaid from the assessments for costs of the Improvements, together with interest thereon calculated pursuant to M.C.A. 7-21-4189, to be levied against the properties in the District. Assessments for the costs of the Improvements, together with interest thereon, shall be payable over a term not exceeding 15 years, each in equal semiannual installments as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Principal of and interest on the Bonds will be paid from such assessments.

All property owners in the District shall have the opportunity to prepay their assessments prior to sale of the Bonds. After the Bonds are issued, all property owners in the District have the right to prepay assessments as provided by law.

This Council further finds that it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize the issuance of the Bonds and the pledge of the Revolving Fund therefor, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The average estimated market value of the properties in the District as of the date of adoption of this resolution, as estimated by the County Assessor, is \$667.00. This estimated market value assume that the properties in the District constitute agricultural land and do not take into account the street and utility improvements being constructed and installed in 2021 by the Developer, as more particularly described in Section 8(f). The special assessments to be levied against the properties in the District are less than the increase in estimated value of the properties as a result of the construction of the Improvements. All of the properties in the District are zoned Planned Unit Development.

(b) Diversity of Property Ownership. There are a total of 4 properties in the District, all of which are owned by the Developer. No improvements, public or private, are

located on any of the properties within the District, other than the street and utility improvements, as more particularly described in Section 8(f).

(c) Comparison of Special Assessments, Property Taxes and Market Value. Based on an analysis of the aggregate amount of the proposed assessments, any outstanding assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a property in the District) against each property in the District in comparison to the estimated market value of such property after the Improvements, the City concludes that, overall, the estimated market value of the properties in the District exceeds the sum of the proposed assessments, outstanding assessments and delinquent property taxes, and is set forth in Exhibit F.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding assessments or property taxes levied against the properties in the District is set forth in Exhibit F, which analysis shows that of 4 properties, 0 properties were delinquent.

(e) Public Benefit of the Improvements. The Elysian Road improvements and the street lights are being built in the public right-of-way and serve a public benefit.

(f) Other Factors. The Annafeld Subdivisions are located in the southwestern part of the City, north and south of Elysian Road. This is one of the fastest growing areas within the City. The Developer intends to undertake the development of a residential community, which will include a diverse mix of single family, cottage, town home and apartment living options, with approximately 1000 residences. Tax codes A36963 and A36964 are parcels that are being subdivided to be Annafeld Subdivision 3<sup>rd</sup> Filing. Tax Code C17796 is a parcel that is being subdivided to be Annafeld North Subdivision 1<sup>st</sup> Filing and 2<sup>nd</sup> Filing. In 2020 and 2021, the Developer is installing the streets and utilities serving the properties in the Annafeld Subdivision 3<sup>rd</sup> Filing and Annafeld North 1<sup>st</sup> Filing. The costs of the street and utility improvements (\$2,257,827.00) have been reviewed by the City's Public Works Department. The street and utility improvements are solely within the boundaries of the District and in accordance with the City's Special Improvement District Policy regarding raw land subdivisions as set forth in Resolution No. 05-18234 adopted by the Council on January 24, 2005 (the "Raw Land Policy") shall constitute On-Site Improvements (i.e., those improvements located within the boundaries of a Special Improvement District) in satisfaction of the requirement that the Developer directly pay or finance 50% or more of the costs of the On-Site Improvements in connection with the of the District and the issuance of the Bonds. The costs of the street and utility improvements, when combined with the costs of the Improvements, represent 51% of the total On-Site Improvements.

## Section 9. Reimbursement Expenditures.

9.1 Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

9.2 Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

9.3 Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$2,170,000.00 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

9.4 Budgetary Matters. As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

9.5 Reimbursement Allocations. The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 10. Public Hearing; Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 12:00 p.m., M.T., on the expiration date of said 15-day period (May 3, 2021), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meeting after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said, regular meeting will be held on Monday the 10<sup>th</sup> day of May 2021, at 5:30 p.m., in the Billings Public Library, at 510 North Broadway, in Billings, Montana and via a virtual videoconferencing environment, in Billings, Montana.

Section 11. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a notice of the passage of this resolution in the Yellowstone County News, a newspaper of general circulation in Yellowstone County on April 16 and 23, 2021, in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said notice to every person, firm, corporation, or the agent of such person, firm, or corporation, with real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 12<sup>th</sup> day of April 2021.

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Mayor

Attest:

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City Clerk