

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. 1418; 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 May 24, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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. 1418; 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 consisting of installing curb, gutter, sidewalk, drive approach, and street improvements to construct Holiday Avenue, as further described in Section 5 (the "Improvements") to benefit certain property located in the City. The total estimated costs of the Improvements are \$339,797.13 and are to be assessed as more particularly described in Sections 7 and 8. 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. 1418 (the "District") for the purpose of undertaking the Improvements and assessing property owners 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. 1418 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 listing of each of the properties in the District is shown on Exhibit C hereto (which are hereby incorporated herein and made a part hereof).

**Section 4. Benefited Property.** The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A, B, and C are hereby declared to be the Special Improvement District and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Sections 7 and 8.

**Section 5. General Character of the Improvements.** The general character of the Improvements, as shown in Exhibit D, is the construction of Holiday Avenue. This includes construction of curb and gutter, sidewalk, drive approach, and street improvements.

**Section 6. Engineer and Estimated Costs of the Improvements.** The Engineer for this project will be the City of Billings, Engineering Division. The Engineering Division has estimated that

the costs of the Improvements are \$339,797.13.

**Section 7. Assessment Methods.**

**7.1. Property to be Assessed.** All properties within the District are to be assessed for the costs of the Improvements as specified herein. The costs of the Improvements, less the amount of the City's contribution described in Section 8, shall be assessed against the property in the District benefiting from the Improvements based on the equal option method described in Section 7-12-4162(3)(a), M.C.A., as particularly applied and set forth in this Section 7.

**7.1.1 Frontage Option Method.** Each property within the District will be assessed for that portion of the total costs of the Improvements that the assessable frontage length of such property bears to the total assessable frontage length in the District. The total assessable frontage length of all properties to be assessed is 740 linear feet. The costs of the Improvements to be assessed against properties in the District, per linear foot of assessable frontage, are estimated to be \$337.84.

**7.2. 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 benefited thereby as prescribed in this Section 7 are equitable in proportion to and not exceeding the special benefits derived from the Improvements by the properties within the District to be assessed therefore.

**Section 8. Payment of Costs of Improvements.** Costs of the Improvements are to be paid from the following sources: (1) Special Improvement District Bonds (the "Bonds") in an aggregate principal amount not to exceed \$250,000.00; and (2) \$89,797.13 of cash contribution by the City. Costs of the Improvements include costs of 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 and all other costs incidental to the Improvements.

**Section 9. Bonds; Pledge of Revolving Fund; Findings and Determinations.** The City intends to issue the Bonds in an aggregate principal amount not to exceed \$250,000.00 for the purpose of financing the portion of the costs of the Improvements that are not payable out of the cash contributions described in Section 8, together with costs associated with the sale of the Bonds.

Principal of and interest on the Bonds will be paid from assessments to be levied against the properties in the District benefitting from the Improvements that are not payable out of the cash contributions described in Section 8. Assessments for the costs of the Improvements shall be payable over a term not exceeding 15 years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds.

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 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 estimated market value of the lots, parcels, or tracts in the District as of the date of adoption of this resolution, as estimated by the County Assessor for property tax purposes ranges from \$85,108.00 to \$2,686,300.00 and is set forth in Exhibit E. The average market value is \$1,061,002.67 with the median being \$411,600.00. 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 Commercial.

(b) **Diversity of Property Ownership.** There are a total of 3 properties within the district boundaries. No improvements, public or private, are located on any of the properties within the District. Two of the properties are owned by one owner.

(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 E. As shown on Exhibit E, neither of the properties have current SID assessments.

(d) **Delinquencies.** An analysis of the amount of delinquencies in the payment of outstanding special assessments or property taxes levied against the properties in the District shows that of 3 properties, zero (0) properties were delinquent, and is set forth in Exhibit E.

(e) **Public Benefit of the Improvements.** The public improvements contemplated under the terms of this proposed District are required by the City Subdivision, Site Development and Zoning Ordinances. Of the three properties, two are developed. The undeveloped property is owned by the property owner with ownership of two properties in the district.

## **Section 10. Reimbursement Expenditures.**

**10.01. 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.

**10.02. 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.

**10.03. 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 \$250,000.00 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.

**10.04. 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.

**10.05. 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 11. 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 (June 13, 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 14<sup>th</sup> day of June, 2021, at 5:30 p.m., in the Billings Public Library, at 510 N. Broadway, in Billings, Montana.

**Section 12. 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 the county on May 28, June 4, and June 11, 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 having 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 24<sup>th</sup> day of May 2021.

---

Mayor

Attest:

---

City Clerk