

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: **A RESOLUTION RELATING TO W.O. 21-12, HARROW DRIVE RECONSTRUCTION; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT 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 June 14, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Bolhman  
City Clerk

RESOLUTION NO. [\_\_\_\_]

A RESOLUTION RELATING TO W.O. 21-12, HARROW DRIVE RECONSTRUCTION; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO ORDER IN THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT 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 Order In. Certain curbs, gutters, sidewalks, drive approaches, alley approaches and/or appurtenant features or a combination thereof in certain locations in the City have deteriorated, settled and cracked, or none exist, and the safety and convenience of the public require installation, construction, reconstruction, repair and/or replacement thereof. Pursuant to M.C.A. 7-14-4109, it is the intention of the Council to order the installation, construction, reconstruction and/or replacements of certain curbs, gutters, sidewalks, drive approaches and/or appurtenant features or a combination thereof (the "Improvements") in certain locations in the City as more particularly described herein. The costs of the Improvements are to be assessed as more particularly described herein.

Section 2. General Character of the Improvements. The general character of the Improvements, as shown in Exhibit A, consists of the construction and installation of curbs, gutters, drive approaches, and appurtenant improvements, storm sewer improvements, asphalt pavement and appurtenant features.

Section 3. Estimated Costs of the Improvements. The City estimates that the costs of the Improvements are \$265,000.00 and are more particularly described in Exhibit C hereto. Costs of the Improvements include costs of the design, engineering, construction and installation of the Improvements, 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.

Section 4. Property to be Assessed. The properties which are adjacent to the Improvements, as shown on Exhibit B hereto, will be assessed for costs of the Improvements as shown on Exhibit D hereto. The cost to be assessed against each property will vary depending upon the actual construction that is required adjacent to each such property. Assessments will be levied against 24 separate properties. The average total assessment is estimated to be \$11,041.67, with a high of \$33,199.58, low of \$0.00, and a median of \$12,324.17.

Section 5. Property Owner Option to Construct Improvements. In the event that this Council orders in the Improvements following the public hearing described in Section 10, then

each owner of property to be assessed for the costs of the Improvements will be notified of such action in writing. Each such owner will have thirty (30) days from the date of said notice in which to install the Improvements with respect to its property at its own expense. In the event the any owner does not install the Improvements with respect to its property, the City will install such Improvements and will assess the costs of the Improvements against such property.

Section 6. Payment for Improvements. Costs of the Improvements are to be paid from the proceeds of Sidewalk, Curb, and Gutter Improvement Bonds (the "Bonds") in an aggregate principal amount not to exceed \$265,000.00.

Section 7. 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 to be assessed for the Improvements. Assessments for the costs of the Improvements, together with interest thereon, shall be payable over a term not exceeding 12 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 to be levied for the Improvements shall 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 properties to be assessed for the Improvements, 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 properties to be assessed for the Improvements as of the date of adoption of this resolution, as estimated by the County Assessor, ranges from \$929,900.00 to \$212,500.00, and is set forth in Exhibit D. The estimated average market value is \$323,879.17 with a high of \$929,900.00 and a low of \$212,500.00, and the median market value of the properties to be assessed for the Improvements is \$289,050.00. The special assessments to be levied against each property are less than the increase in estimated value of the properties as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. There are a total of 20 properties to be assessed for the Improvements and such properties are owned by 20 separate owners. There are a total of 24 properties within the Resolution, 3 are non-addressed.

(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 to be assessed for the Improvements) against each property to be assessed for the Improvements 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 to be assessed for the Improvements exceeds the sum of the proposed assessments, outstanding assessments and delinquent property taxes, and is set forth in Exhibit D.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding assessments or property taxes levied against the properties to be assessed for the Improvements is set forth in Exhibit D, which analysis shows that of 24 properties, 0 properties were delinquent.

(e) Public Benefit of the Improvements. The Improvements are required for the safety and convenience of the public. Pursuant to the City's Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new and repair or replacement of existing curb, gutter, and drive approaches is to be borne by the adjacent property owners.

#### Section 8. Reimbursement Expenditures.

8.1 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.

8.2 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.

8.3 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 \$265,000.00 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.

8.4 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.

8.5 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 9. Public Hearing. On Monday, June 14, 2021, at 5:30 p.m., at a regular meeting in the Billings Public Library located at 510 N. Broadway, in Billings, Montana, the City Council will conduct a public hearing concerning the Improvements and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

Section 10. 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 June 18, and June 25, 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 to be assessed for the Improvements 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 14<sup>th</sup> day of June, 2021.

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Mayor

Attest:

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City Clerk