

ORDINANCE NO. 22-_____

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REPEALING PORTIONS OF SECTIONS 13-1102, 13-1105, 13-1107 AND REPEALING ALL OF SECTIONS 13-1101, 13-1104 AND 13-1109 TO MODIFY THE REVOLVING LOAN PROGRAM.

WHEREAS, the city by Resolution No. 12303, adopted December 20, 1976, adopted the Billings, Montana, Downtown Redevelopment District Plan (the "plan") as an urban renewal plan for the Downtown Redevelopment District (the "district") and elected to exercise its urban renewal powers ("urban renewal powers") pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"). Pursuant to the Act and the procedures contained in the plan, as amended by Ordinance No. 84-4598, the city has established a procedure for approving urban renewal projects from time to time, and

WHEREAS, the plan contained a provision for tax increment financing. In 1983, the city implemented its tax increment revolving loan program (the "program"), pursuant to which the city has used approximately six hundred thousand dollars (\$600,000) of tax increment moneys to make loans for eligible projects under the program. Principal of and interest received on the program loans were deposited in to the revolving loan fund (the "fund") as received. Since 1988, no additional tax increment moneys have been deposited in the fund and the city does not plan to or anticipate appropriating any additional tax increment revenues to the fund. As of June 30, 2021, there was approximately nine hundred eighteen thousand dollars (\$918,000) of cash in the fund available for loans. The fund had approximately one million eight hundred four thousand seven hundred forty-eight dollars (\$1,804,748) in principal amount of loans outstanding. The total assets of the program are approximately two million seven hundred nineteen thousand eight hundred fourteen dollars (\$2,719,814), and

WHEREAS, the City of Billings, Yellowstone County, School District #2, Downtown Billings Association and the Big Sky Economic

Development Authority along with the business community and interested citizens have participated in the development of the Downtown Billings Framework Plan adopted in December 1997, which among other things identifies weaknesses of downtown Billings which includes the district as well as strategies, goals and objectives for strengthening and revitalizing the downtown area, and

WHEREAS, pursuant to Resolution No. 98-17412, adopted on September 28, 1998, the city council approved the Downtown Billings Improvement Plan as an urban renewal project, and

WHEREAS, the city has entered into an agreement with the Downtown Billings Partnership Inc. (the "partnership") pursuant to which the partnership will provide certain administrative services with respect to the implementation of the plan. The partnership has recommended that it play a greater role in the promotion and administration of the program and has made some recommendations for changes in the revolving loan program, and

WHEREAS, on the 2nd day of October, 2000, the City and bank pool entered into an Inter-Creditor Agreement, which provided that the commitments of all Banks which were a party to the Agreement would automatically terminate, if not previously terminated on the fifth anniversary of the Agreement, and

WHEREAS, on the 22nd day of August, 2005, the parties agreed to extend the term of the Agreement for an additional five (5) year term and that Agreement would automatically terminate, if not previously terminated, on the fifth anniversary of the extended Agreement, and

WHEREAS, on the 14th day of September, 2010, the parties agreed to amend parts of and extend the term of the Agreement for an additional five (5) year term and that Agreement would automatically terminate, if not previously terminated, on the fifth anniversary of the extended Agreement, and

WHEREAS, on the 21st day of February, 2012, the City made its final payment to the bank pool, and

WHEREAS, on the 2nd day of October, 2015, the intercreditor agreement expired due to lack of extension and need at the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS THAT:

Section 1. That Section 13-1102 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

Sec. 13-1102~~1~~ – Recreation of r Revolving loan program

The council hereby ~~recreates and renames its tax increment revolving loan program as~~ modifies the City of Billings Downtown Revolving Loan Program. The city hereby establishes ~~within its trust and agency fund, special~~ a fund, to be known as the Downtown Revolving Loan Program Fund, and all funds and assets of the tax increment revolving loan program fund shall be credited to this fund.

Section 2: That Section 13-1105 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

Sec. 13-1103~~5~~ – Applicant eligibility

The fund shall be used to assist individuals, corporations, partnerships and other profit and non-profit groups for eligible projects ~~in the district~~ within the boundaries as established by the loan committee.

Section 3: That Section 13-1107 of the Billings, Montana City Code is renumbered and amended so that such section shall read as follows:

Sec. 13-1105~~7~~ – Loan application and underwriting criteria

- (a) The city administrator is authorized to develop program guidelines in conjunction with the Downtown Billings Partnership Inc., as may be required on the loan application and underwriting criteria for the program; ~~such guidelines will be approved by the city council.~~ All loans shall meet the following minimum conditions:
- (1) Borrowers are creditworthy;
 - (2) Projects are economically viable;
 - (3) Projects are consistent with the plan and objectives of the program;
 - (4) Additional real or personal property security interest may be required from a borrower—i.e. equity, etc. if recommended by the loan eligibility review committee;
 - (5) Requests are accepted up to two hundred fifty thousand dollars (\$250,000.00);
 - (6) Loans may not exceed twenty (20) years; and
 - (7) Loan repayment is guaranteed by relevant beneficiaries and/or collateralized.
- (b) A four-person loan eligibility review committee composed of one (1) ~~representative person~~ each from the city, ~~the bank pool~~ a commercial lender from a local bank, ~~the Yellowstone Regional Development Company (a 501(c)(3) non-profit Montana corporation)~~ a board member or employee of Big Sky Economic Development and ~~the~~ a member of the Downtown Billings Property Owners Committee Alliance will review the loan applications and make recommendations to the city council for approval of the loans.
- (c) The Mayor will receive applications ~~nominations~~ from each ~~organization named above~~ and shall appoint the members of the loan committee for a ~~terms~~ of two ~~four~~ (2) (4) years.
- ~~(c)~~(d) The Downtown Billings Partnership Inc. or its designee, will report to the city council regarding the use, status and particulars of the revolving loan fund on at least an annual basis.

Section 4: That Sections 13-1103, 13-1106, 13-1108 of the Billings, Montana City Code is renumbered so that such sections shall read as follows:

Sec. 13-11023 – Purpose

Sec. 13-11046 – Eligible projects

Sec. 13-11068 – Authority of the city administrator

Section 5: That Section 13-1101 is repealed in its entirety:

Sec. 13-1101 – Recitals

- (a) ~~The city by Resolution No. 12303, adopted December 20, 1976, adopted the Billings, Montana, Downtown Redevelopment District Plan (the "plan") as an urban renewal plan for the Downtown Redevelopment District (the "district") and elected to exercise its urban renewal powers ("urban renewal powers") pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act"). Pursuant to the Act and the procedures contained in the plan, as amended by Ordinance No. 84-4598, the city has established a procedure for approving urban renewal projects from time to time.~~
- (b) ~~The plan contained a provision for tax increment financing. In 1983, the city implemented its tax increment revolving loan program (the "program"), pursuant to which the city has used approximately six hundred thousand dollars (\$600,000) of tax increment moneys to make loans for eligible projects under the program. Principal of and interest received on the program loans were deposited in to the revolving loan fund (the "fund") as received. Since 1988, no additional tax increment moneys have been deposited in the fund and the city does not plan to or anticipate appropriating any additional tax increment revenues to the fund. As of January 1, 1999, there was approximately eight hundred twenty-five thousand dollars (\$825,000) of cash in the fund available for loans. The fund has approximately~~

~~eight hundred forty thousand dollars (\$840,000) in principal amount of loans outstanding. As of this date, the assets of the program are approximately one million six hundred fifty-eight thousand five hundred seventeen dollars (\$1,658,517).~~

- ~~(c) Under the Act, as existing, the city's ability to use tax increment financing will terminate on the date that the last principal of and interest on the city's urban renewal tax increment bonds outstanding on the date hereof are paid, which is scheduled to be March 1, 2008. Under the Act, the city is authorized to exercise urban renewal powers without the adoption of tax increment financing or beyond the expiration of tax increment financing.~~
- ~~(d) The City of Billings, Yellowstone County, School District #2, Downtown Billings Association and the Big Sky Economic Development Authority along with the business community and interested citizens have participated in the development of the Downtown Billings Framework Plan adopted in December 1997, which among other things identifies weaknesses of downtown Billings which includes the district as well as strategies, goals and objectives for strengthening and revitalizing the downtown area.~~
- ~~(e) Pursuant to Resolution No. 98-17412, adopted on September 28, 1998, the city council approved the Downtown Billings Improvement Plan as an urban renewal project.~~
- ~~(f) The city has entered into an agreement with the Downtown Billings Partnership Inc. (the "partnership") pursuant to which the partnership will provide certain administrative services with respect to the implementation of the plan. The partnership has recommended that it play a greater role in the promotion and administration of the program and has made some recommendations for changes in the revolving loan program.~~
- ~~(g) Based on the recommendation of the partnership, city staff and the Yellowstone Regional Development Company, the city believes that the objectives of the plan will not be fully realized by the termination~~

~~date of tax increment financing and believes that it is the best interest of the city, the plan and the Billings Downtown Framework Plan to establish a funding mechanism to secure and grow the revolving loan fund so that funds other than tax increment funds will be available for the city to promote and foster the objectives of the plan and the downtown framework plan.~~

~~(h) The purpose of this resolution is to modify and reestablish the city's revolving loan program to meet those objectives.~~

Section 6: That Section 13-1104 is repealed in its entirety:

Sec. 13-1104 – Source of funding of the loan program; conditions

~~(a) A consortium of local banks (the "banks") will enter into agreement whereby the banks will make available to the city an additional one million six hundred thousand dollars (\$1,600,000.00) for the revolving loan program (the "Bank pool").~~

~~(b) The funds in the bank pool will be made available to the city in the form of loans to the city from the bank pool at an interest rate below market rate to be agreed upon by the bank pool and city. The city will use the proceeds of its loan to make direct loans to eligible borrowers for eligible projects at an interest rate one (1) percent above the interest rate on the city's loan.~~

~~(c) Loans may be made for acquisition or construction of buildings, renovation and rehabilitation therefor, interior and exterior tenant improvements, equipment and related improvements.~~

~~(d) The city can only access the bank pool if there are no available moneys in the revolving fund from which to make a loan for an eligible project and the city has entered into a commitment to make such a loan.~~

~~(e) The city will grant the bank a first security interest in the assets of the revolving fund as security for the banks' loan to the city.~~

Section 7: That Section 13-1109 is repealed in its entirety:

~~Sec. 13-1109 Notice of public hearing.~~

~~A public hearing is hereby called and shall be held on July 12, 1999 at 7:30 p.m. in the council chambers on the proposed modifications. Notice of the public hearing shall be published in the Billings Times on July 1 and July 8, 1999 in substantially the form attached as Exhibit A hereto.~~

PASSED by the City Council on first reading this ____ day of _____, 2022.

PASSED, ADOPTED and APPROVED on second reading this ____ day of _____, 2022.

CITY OF BILLINGS

William A. Cole, Mayor

ATTEST:

Denise Bohlman, City Clerk