

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 FINANCING RENOVATIONS OF AND IMPROVEMENTS TO THE STILLWATER BUILDING; AUTHORIZING AND DIRECTING CITY STAFF TO PURSUE FINANCING OPTIONS; AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on June 26, 2023, and 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Council Members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand officially this ____ day of _____, 2023.

(SEAL)

City Clerk

RESOLUTION NO. _____

RESOLUTION RELATING TO FINANCING RENOVATIONS OF AND IMPROVEMENTS TO THE STILLWATER BUILDING; AUTHORIZING AND DIRECTING CITY STAFF TO PURSUE FINANCING OPTIONS; AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

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

Section 1. Recitals; Prior City Actions.

In October 2021, the City purchased the former federal courthouse building located at 316 North 26th Street in the City (the “Stillwater Building”). The City has determined that renovations of and improvements to the Stillwater Building are necessary to make the Stillwater Building suitable for use as a law and justice center and city offices (such renovations and improvements, collectively, the “Project”). The Project is projected to cost approximately \$30,000,000 and is expected to be undertaken in phases. The City has adopted a self-governing charter, and is entitled under the constitution and laws of the State of Montana (the “State”) to exercise any power not prohibited by the constitution, State law or the City’s charter.

Pursuant to the Internal Revenue Code of 1986 (the “Code”), including more particularly Section 47 of the Code, as well as Title 15, Chapter 24, Part 16, Montana Code Annotated, there are federal and state historic preservation tax credits available to incentivize preservation and renovation of historic structures. Historic preservation tax credits allow third parties to invest in qualified preservation and renovation projects in exchange for federal and state historic preservation tax credits. The City has engaged Brian Wishneff, and Associates, LLC (“Wishneff”) to assist the City with respect to historic preservation tax credits and related financing arrangements, including identifying potential third party investors. The City has been advised by Wishneff and the State of Montana Historic Preservation Office that all or a portion of the Project is eligible for federal and state historic preservation tax credits.

In addition, the City is authorized under State law to enter into non appropriation lease purchase financing arrangements for the purpose of providing funds for the Project.

Section 2. Authorization to Pursue Historic Preservation Tax Credit Financing. The City Administrator and City Finance Director, in consultation with Baker Tilly Municipal Advisors, LLC, the City’s municipal advisor (“Baker Tilly”), Dorsey & Whitney LLP, the City’s bond counsel (“Dorsey & Whitney”), and Wishneff, are hereby authorized and directed to proceed with requests for historic preservation tax credit financing proposals for the Project and engage in discussions and negotiations with potential investors, syndicators, banks, underwriters and other financial institutions with respect to the terms and conditions thereof. If a favorable historic preservation tax credit financing proposal is received, as determined by the City Administrator and City Finance Director, the terms, conditions, and forms of documentation

thereof, including documentation with respect to the formation of a limited liability company to be owned by the City, shall be negotiated and prepared and submitted to this Council for approval. All actions taken to date by officers and staff of the City on behalf of the City in connection with any historic preservation tax credit financing with respect to the Project are hereby ratified and confirmed.

Section 3. Authorization to Pursue Nonappropriation Lease Purchase Financing. The City Administrator and City Finance Director, in consultation with Baker Tilly and Dorsey & Whitney, are hereby authorized and directed to proceed with requests for lease purchase financing proposals for the Project and engage in discussions and negotiations with potential investors, banks, underwriters and other financial institutions with respect to the terms and conditions thereof. If a favorable proposal for lease purchase financing proposal is received, as determined by the City Administrator and City Finance Director, the terms, conditions and forms of documentation thereof shall be submitted to this Council for approval. All actions taken to date by officers and staff of the City on behalf of the City in connection with lease purchase financing with respect to the Project are hereby ratified and confirmed.

Section 4. Reimbursement Expenditures. If the City determines to issue tax-exempt obligations to finance the Project, the following provisions apply.

4.01 Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt obligations, including nonappropriation lease purchase financing arrangements, 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 obligations. 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 obligations be issued and the reimbursement allocation made from the proceeds of the obligations within 18 months (or three years, if the reimbursement 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 obligations.

4.02 Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than tax-exempt obligations of the City, if any (collectively, the “Obligations”), (ii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iii) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have been paid by the City before the date 60 days before the date of adoption of this resolution.

4.03 Declaration of Intent. The City reasonably expects to reimburse the expenditures made for costs of the Project out of the proceeds of Obligations in an estimated maximum aggregate principal amount of \$25,000,000 after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Obligations or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

4.04 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 Project, other than pursuant to the issuance of the Obligations. 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.

4.05 Reimbursement Allocations. The City Finance Director shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Obligations to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Obligations or the Project and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this ___ day of _____, 2023.

Mayor

Attest: _____
City Clerk