

## 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 21-10944, entitled: "RESOLUTION RELATING TO UP TO \$1,510,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH BONDS, SERIES 2021; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF; AND AMENDING AND RESTATING RESOLUTION NO. 21-10922 ADOPTED JANUARY 25, 2021" (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 April 26, 2021, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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: Yakawich, Shaw, Ewalt, Neese, Joy, Choriki, Ronning, Purinton, Boyett, and Mayor Cole; voted against the same: None; abstained from voting thereon: None; or were absent: Brown.

WITNESS my hand officially this 26th day of April, 2021.

(SEAL)



*Denise R. Bohlman*

Denise R. Bohlman, City Clerk

## RESOLUTION 21-10944

### REOLUTION RELATING TO UP TO \$1,510,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH BONDS, SERIES 2021; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF; AND AMENDING AND RESTATING RESOLUTION NO. 21-10922 ADOPTED JANUARY 25, 2021

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

Section 1. Prior Acts. This Council has duly and validly ordered in under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended and Title 7, Chapter 12, Parts 41 and 42, as amended (collectively, the "Act"), the installation, construction, reconstruction, or replacements of certain curbs, gutters, sidewalks, drive approaches, driveways, alley approaches and appurtenant improvements in certain locations in the City, which are designated as W.O. 19-02, Missing Sidewalk/Miscellaneous Project (the "Missing Sidewalk Improvements"), W.O. 19-35, Metal Streets Improvements (the "Metal Streets Improvements"), and W.O. 20-12 (the "South 32nd Street West Improvements"). The Missing Sidewalk Improvements, Metal Streets Improvements and the South 32nd Street West Improvements are referred to collectively herein as the "Improvements." The City has determined to assess the costs of the Improvements against property adjacent to the Improvements. 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.

On January 25, 2021, this Council adopted Resolution No. 10922 (the "Original Resolution") authorizing the City to issue and sell a series of special sidewalk, curb, gutter and alley approach bonds in the aggregate principal amount of up to \$610,000 in order to finance on a pooled basis the Missing Sidewalk Improvements and the Metal Streets Improvements. Given the requisite timing for the financing of the South 32nd Street Improvements, the City desires to include the South 32nd Street West Improvements as part of the pooled bond financing authorized pursuant to the Original Resolution. Accordingly, the Council desires to amend and restate the Original Resolution in its entirety as provided herein.

#### Section 2. Recitals.

2.01. Proposed Bond Issue. The City proposes to issue special sidewalk, curb, gutter and alley approach bonds of the City in the maximum estimated principal amount of \$1,510,000 to pay the costs of the Improvements (the "Bonds"). The Bonds are to be payable from special assessments to be levied against property adjacent to the Improvements, which property will be specially benefited by the Improvements.

Assessments will be levied against the property adjacent to the Improvements in an amount not less than the principal amount of the Bonds to be issued.

The costs of the Improvements are currently estimated, as follows:

	<u>Missing Sidewalk Improvements</u>	<u>Metal Streets Improvements</u>	<u>South 32nd Street West Improvements</u>
Construction	\$253,553.97	\$217,487.80	\$663,142.78
City Engineering (Project Consultant Management	46,746.03	31,912.20	21,059.50
City Financing Expense	—	—	139,597.72
Revolving Fund Deposit	1,200.00	6,600.00	1,200.00
Costs of Issuance	16,500.00	14,000.00	45,000.00
Total	12,000.00	10,000.00	12,000.00
	<hr/>	<hr/>	<hr/>
	\$330,000.00	\$280,000.00	\$900,000.00

2.02. Pooling. The City is authorized pursuant to Montana Code Annotated, Sections 7-14-4109(5)(a) and 7-12-4193, to issue and sell sidewalk, curb, gutter and alley approach bonds relating to more than one project in a single offering on a pooled basis upon a determination that such pooling is in the best interests of the properties specially benefiting from the Improvements and the City and will facilitate the sale of the bonds under more advantageous terms or with lower interest rates.

### Section 3. Sale and Term of Bonds.

3.01. Principal Amount. Pursuant to Sections 7-7-4204 and 17-5-107, Montana Code Annotated, this Council hereby determines that it is in the best interests of the properties specially benefiting from the Improvements and the City to sell the Bonds in a single pooled offering for the Improvements, at a private negotiated sale. The City Finance Director is authorized to select one or more purchasers (the "Purchaser") for the Bonds and to negotiate the sale thereof, subject to Section 3.02 hereof.

<u>Improvement</u>	<u>Principal Amount</u>
Missing Sidewalk Improvements	\$ 330,000.00
Metal Streets Improvements	\$ 280,000.00
South 32 <sup>nd</sup> Streets Improvements	\$ 900,000.00
	<hr/>
	\$1,510,000.00

3.02. Pricing and Terms. The Bonds shall be sold to the Purchaser on the terms and at a purchase price subject to the following limitations and conditions: (1) the aggregate principal amount of the Bonds shall not exceed \$1,510,000; (2) the net interest cost on the Bonds shall not exceed 4.00%; (3) the purchase price of the Bonds shall not be less than 100% of the principal amount thereof; (4) the term of the Bonds shall not exceed 12 years; (5) the Bonds shall be payable from special assessments to

be levied against property adjacent to the Improvements; and (6) the Bonds shall be callable from the prepayment of special assessments.

All costs of issuing the Bonds (including, without limitation, the fees and expenses of Dorsey & Whitney LLP, the City's Bond Counsel, the fees of the Paying Agent and Registrar and the Bonds, if any) shall be paid by the City as part of the financing from proceeds of the Bonds or other available sources.

3.03. Bond Purchase Agreement. The City Administrator and City Finance Director are hereby authorized and directed to approve the final principal amount of the Bonds, dated date, the debt service schedule, interest rates and redemption provisions of the Bonds, subject to the limitations contained in Section 3.02 hereof and the Act. Upon approving such terms, the City Administrator and City Finance Director are hereby authorized and directed to approve, execute and deliver to the Purchaser a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchaser to purchase, the Bonds on the terms so approved, and containing such other provisions as such officers shall deem necessary and appropriate. In the event of the absence or disability of the City Administrator and City Finance Director, the Mayor or Deputy City Administrator shall make such approvals and execute and deliver the Bond Purchase Agreement. The execution and delivery by appropriate officers of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officers of the terms of the Bonds and the agreement of the City to sell the Bonds on such terms in accordance with the provisions thereof.

The form of the Bonds and the final terms and conditions thereof shall be prescribed by a subsequent resolution to be adopted by this Council.

Section 4. Pledge of Revolving Fund. In the resolutions ordering in the Missing Sidewalk Improvements, the Metal Streets Improvements and the South 32nd Street West Improvements adopted by the City Council on May 13, 2019, April 13, 2020 and March 22, 2021, respectively, this Council found it to be in the public interest, and in the best interest of the properties specially benefitting from the Improvements and the City, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 5 Effect of Resolution. This resolution shall be effective immediately upon its passage. It amends, restates and supersedes the Original Resolution in its entirety.

PASSED AND APPROVED by the City Council of the City of Billings, Montana,  
this 26th day of April, 2021.



Attest:

By: Denise R. Bohlman  
Denise R. Bohlman, City Clerk

William A. Cole  
William A. Cole, Mayor