

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Missoula, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: **"Resolution Relating to the Development of the Fox Site; Approving Modifications to the Project; Authorizing Changes to the Collateral Agreements and Delegating Authority to Approve, Execute and Deliver Amended Collateral Documents"** (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 at a meeting on October 21, 2019, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 and seal officially this 21st day of October, 2019.

(SEAL)

City Clerk

RESOLUTION NO. _____

**Resolution Relating to the Development of the Fox Site;
Approving Modifications to the Project; Authorizing Changes
to the Collateral Agreements and Delegating Authority to
Approve, Execute and Deliver Amended Collateral Documents**

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

Section 1. Prior Action; Proposed Modifications; Authorization.

Section 1.01 Prior City Acts. Pursuant to Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the “Act”) and Ordinance No. 3380 enacted by the City Council on July 21, 2008, the City created the Riverfront Triangle Urban Renewal District (the “District”) as an urban renewal district, directed the Missoula Redevelopment Agency (“MRA”) to exercise the City’s urban renewal powers under the Act, and approved the Riverfront Triangle Urban Renewal Plan (the “Plan”) as an urban renewal plan in accordance with the provisions of the Act, which Plan provides for the segregation and collection of tax increment revenues with respect to the District.

The City owns certain real property, commonly known as the Fox Site, located within the boundaries of the District. On November 13, 2017, the City Council approved Resolution No. 8223, pursuant to which it approved a large scale redevelopment project for the Fox Site and related public improvements, and approved the forms of certain collateral agreements documenting the transaction (as further described in Resolution No. 8223, the “Collateral Agreements”). Following such approval, and pursuant to delegation from the City Council in Resolution No. 8223, the City Attorney, Chief Administrative Officer, the Director and Assistant Director of the Missoula Redevelopment Agency (the “MRA”) and other officers of the City negotiated and finalized the Collateral Agreements. On November 22, 2017, the Collateral Agreements were executed and delivered by all parties thereto.

Section 1.02 The Project, the Public Improvements and the Proposed Modifications. As provided in the Collateral Agreements, the expectation was that Hotel Fox Partners, LLC (“HFP”) would undertake the construction and operation of a hotel with approximately 200 hotel rooms and approximately 48 residential condominium units (the “Hotel Fox Building”); a conference center capable of attracting regional conferences (the “Conference Center”); approximately 96 parking spaces for the use of the residential condominiums and any parking spaces acquired by HFP in connection with the Hotel Fox Building (the “Private Parking Spaces”); a public parking facility with approximately 309 spaces sufficient to accommodate parking needs of the hotel, conference center, and other public uses, of which HFP would lease approximately 200 parking spaces (the “Parking Facility” and, collectively with the Hotel Fox Building, the Conference Center and the Private Parking Spaces, the “Project”); and related public improvements and public infrastructure at and adjacent to the Fox Site (the “Public Improvements”).

HFP now desires to assign all of its right, title and interest in and to and all of its obligations under the Collateral Agreements to a new developer, Clark Fork Riverfront Project, LLC and/or Stonefly Capital, LLC (together with successors, assigns, and any parent or subordinate entities, “Clark Fork”).

In addition, Clark Fork proposes various modifications to the structure of the transaction, which include, but are not limited to, the following:

- Clark Fork proposes to modify the Project such that instead of constructing and operating the Conference Center, Clark Fork would construct and provide for the operation of a City-owned civic event center capable of serving multipurpose events and activities, including hosting musical, cultural and community events as well as conferences and banquets (the “Civic Event Center”).
- Clark Fork proposes reducing the number of Private Parking Spaces from 96 to 48, and increasing the size of the public Parking Facility from 309 spaces to 357 spaces.
- The Lease/Management Agreement providing for the lease and management of the Conference Center provides for a term of 25 years, with two renewal terms of 10 years each. Clark Fork proposes modifying the Lease/Management Agreement to provide for the lease and management of the Civic Event Center for an initial term of 50 years, with two renewal terms of 12.5 years each.
- The Land Disposition Agreement currently provides for payment of the purchase price for the Fox Site with a promissory note secured by a subordinate trust indenture. Clark Fork proposes paying the purchase price for the Fox Site in cash or immediately available funds, eliminating the need for a promissory note or trust indenture.
- The purchase price for each of the Civic Event Center and the Parking Facility will be negotiated and mutually agreed by the parties, provided that in no event would the purchase price of the Civic Event Center exceed the City’s bonding capacity based on projected tax increment revenues and that in no event would the purchase price of the Parking Facility exceed the City’s bonding capacity based on projected net parking revenues from the Parking Facility and, if necessary and available, tax increment revenues.

Based on the detailed and complex nature of the Collateral Agreements, replacing the Conference Center with the Civic Events Center would also require other amendments and modifications throughout the Collateral Agreements to harmonize and conform the Collateral Agreements to the proposals described above.

Section 1.03 Authorization. Under the provisions of Montana Code Annotated, Title 7, Chapter 14, Part 45, as amended, the City is authorized to construct and maintain on any land owned or leased by the City suitable parking facilities for the use of the public and for general

traffic control and to charge for the use of such facilities, and to issue bonds payable in whole or in part from parking revenues to pay the costs of parking facilities.

In addition, under the provisions of the Act, the City is authorized to create urban renewal areas, prepare and adopt an urban renewal plan therefor and amendments thereto, undertake urban renewal projects therein, provide for the segregation and collection of tax increment with respect to property taxes collected in such areas, issue its bonds to pay the costs of such projects and pledge to the repayment of the bonds all or a portion of the tax increment and other revenues derived from projects undertaken within the urban renewal area. Pursuant to Montana Code Annotated, Title 7, Chapter 16, Part 41, the City is authorized to procure, construct, establish, maintain, and operate various cultural, social and recreational facilities, including civic centers.

Section 2. Findings.

It is hereby found, determined and declared that the Project, modified as described in Section 1.02 hereof, will provide to the City the same substantial public benefits as the originally conceived Project, including but not limited to the removal of blight; significant economic benefit to the City and the public; the transformative and iconic effect of a large-scale redevelopment of the riverfront area; increased numbers of new visitors to the City; substantial job creation; spin-off development; increased possibilities for community marketing and intangible benefits such as improvements to quality of life in the City, improved community reputation and opportunities to experience or participate in cultural, social and recreational events.

Section 3. Approval of Modification to Project; Approval to Negotiate Assignment and Assumption of Collateral Agreements. The Project, modified as described in Section 1.02 hereof, is hereby approved.

The City Attorney, Chief Administrative Officer and Director and/or Assistant Director to the MRA are authorized and directed to negotiate and approve instruments effecting the assignment to and assumption by Clark Fork of HFP's rights and obligations, respectively, under the Collateral Agreements. Such instrument or instruments to be executed by the City are directed to be executed in the name and on behalf of the City by the Mayor and the City Clerk. In the absence or disability of the Mayor, any of the documents authorized by this resolution to be executed may be executed by the acting Mayor and in the absence or disability of the City Clerk, by the Deputy City Clerk.

Section 4. Changes to Collateral Agreements. The City Attorney, Chief Administrative Officer and Director and/or Assistant Director to the MRA are authorized and directed to negotiate and approve such changes and modifications to the Collateral Agreements as may be necessary to conform and harmonize the Collateral Agreements with the modifications to the Project approved herein. The Collateral Agreements to be executed by the City are directed to be executed in the name and on behalf of the City by the Mayor and the City Clerk. In the absence or disability of the Mayor, any of the documents authorized by this resolution to be executed may be executed by the acting Mayor and in the absence or disability of the City Clerk, by the Deputy City Clerk.

The Mayor, the City Clerk and, as appropriate, other officers of the City are also authorized and directed to execute and deliver such other instruments and miscellaneous transactional documents as may be required to give effect to the transactions contemplated in the Collateral Agreements and this resolution. Their signatures or his or her signature thereon will conclusively evidence approval thereof.

The approval hereby given to the various documents referred to above includes an approval of such modifications thereto, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Mayor or the Chief Administrative Officer and the City Attorney. The execution of any instrument, agreement, or document by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof and thereof.

In addition, the Chief Administrative Officer, the City Attorney, the Director and/or Assistant Director of the MRA and other appropriate officers of the City or MRA are hereby authorized and directed to negotiate and complete the various exhibits, schedules and addenda in the Collateral Agreements, at the time or times set forth in the applicable Collateral Agreement, and such completed exhibits, schedules, and addenda are authorized to be executed and delivered on behalf of the City by the Mayor, the City Clerk, or other appropriate officer of the City. The execution of any exhibit, schedule or addendum by the appropriate officer or officers of the City herein authorized shall be conclusive evidence of the approval of such exhibit, schedule or addendum in accordance with the terms hereof and thereof.

Section 5. Effective Date. This resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED by the City Council of Missoula, Montana, this 21st day of October, 2019.

Mayor

Attest: _____
City Clerk

(SEAL)