

RESOLUTION NO. _____

RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF MISSOULA, MONTANA TO REIMBURSE CERTAIN ORIGINAL EXPENDITURES RELATED TO THE PURCHASE OF CAPITAL EQUIPMENT FROM THE PROCEEDS OF TAX- EXEMPT BONDS TO BE ISSUED BY THE CITY AFTER THE PAYMENT OF SUCH ORIGINAL EXPENDITURES

WHEREAS, U.S. Treasury Regulations, Section 1.150-2 (the “Reimbursement Regulations”), promulgated pursuant to Section 150 of the Internal Revenue Code of 1986, as amended (the “Code”), provides that the allocation of the proceeds of tax-exempt bonds to expenditures for governmental purposes originally paid from a source other than such tax-exempt bonds will be treated as expenditures of such tax-exempt bonds only if certain requirements of the Reimbursement Regulations are satisfied by the issuer of such tax-exempt bonds; and

WHEREAS, the City of Missoula, Montana (the “City”), expects to pay certain original expenditures for the purchase of capital equipment in 2019 and 2020 contained in the City’s annual capital improvement plan for items such as but not limited to public safety, road work, and maintenance equipment (collectively, the “Equipment”), which original expenditures are expected to be financed temporarily from the City’s Capital Improvement Projects Fund, and which original expenditures are expected to be reimbursed from the proceeds of one or more series of tax-exempt bonds;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MISSOULA, MONTANA, AS FOLLOWS:

1. The City has a reasonable expectation (within the meaning of Treasury Regulations, Section 1.148-1(b)) that it will make expenditures for the purchase of the Equipment in 2019 and 2020 out of the City’s Capital Improvement Projects Fund. The City has a reasonable expectation that it will issue one or more series of tax-exempt bonds (the “Bonds”) in the estimated maximum principal amount of \$4,000,000 to finance the Equipment and that the City will make reimbursement allocations with respect to such original expenditures for the Equipment from the proceeds of such Bonds.

2. This Resolution shall be maintained as part of the books and records of the City at the main administrative office of the City, and shall be continuously available during normal business hours of the City on every business day of the period beginning not more than thirty (30) days after adoption of this Resolution and ending on the last date of issue of any Bonds.

3. This Resolution has been adopted not later than sixty (60) days after payment of any original expenditure for the Equipment to be subject to a reimbursement allocation with respect to the proceeds of the Bonds.

4. All reimbursement allocations with respect to the Bonds will be made not later than eighteen (18) months after the later of: (i) the date the original expenditure is paid; or (ii) the date the Equipment is placed in service or abandoned, but in no event more than three (3) years after an original expenditure is paid for the Equipment. If the Bonds are eligible for the small issuer exception from arbitrage rebate, the “18-month” limitation above is extended to “three years” and the “three-year” maximum reimbursement period is disregarded.

5. All original expenditures to which reimbursement allocations are to be made constitute: (i) capital expenditures; (ii) costs of issuance of the Bonds; (iii) expenditures for extraordinary, nonrecurring items that are not customarily payable from current revenues, such as casualty losses or extraordinary legal judgments in amounts in excess of reasonable insurance coverage, and for which no reserve is maintained; or (iv) a grant (as defined in Treasury Regulations, Section 1. 148-6(d)(4), as a transfer for a governmental purpose of money or property to a transferee that is not a related party to or an agent of the transferor with respect to which no obligation or condition is imposed to directly or indirectly repay any amount to the transferor).

6. The limitations set forth in paragraphs 3 and 4 of this Resolution do not apply to: (i) the costs of issuance of the Bonds; (ii) an amount not in excess of the lesser of \$100,000 or five percent (5%) of the proceeds of the Bonds; or (iii) preliminary expenditures up to an amount not in excess of twenty percent (20%) of the aggregate issue price of the Bonds that finance or are reasonably expected by the City to finance the Equipment for which the preliminary expenditures were incurred. The term "preliminary expenditures" includes architectural, engineering, surveying, soil testing, reimbursement bond issuance, and similar costs that are incurred prior to commencement of acquisition, construction, or rehabilitation of the Equipment, other than land acquisition, site preparation, and similar costs incident to commencement of construction.

7. This Resolution is an expression of the reasonable expectations of the City based on the facts and circumstances known to the City as of the date hereof. The anticipated original expenditures for the Equipment are consistent with the City's budgetary and financial circumstances. No sources other than proceeds of Bonds to be issued by the City are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside pursuant to the City's budget or financial policies to pay such expenditures for the Equipment.

8. This Resolution is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations.

9. No reimbursement allocation of the proceeds of the Bonds to expenditures for the Equipment will employ an abusive arbitrage device (within the meaning of Treasury Regulations, Section 1.148-10) to avoid the arbitrage restrictions or to avoid the restrictions of Sections 141 through 150 of the Code.

Passed by the City Council of the City of Missoula, Montana, this __th day of _____, 2019.

Attest:

/s/

Martha L. Rehbein
City Clerk

Approved:

/s/

John Engen
Mayor