

**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"), certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF VARIOUS PROPERTY SCHEDULES WITH RESPECT TO THE MASTER TAX-EXEMPT INSTALLMENT PURCHASE AGREEMENT WITH U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC. AND, FOR THE FINANCING OF VARIOUS ITEMS OF CAPITAL EQUIPMENT AND OTHER MATTERS IN CONNECTION THEREWITH" (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 18, 2022, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 City Council members voted in favor thereof: \_\_\_\_\_; Nays, \_\_\_\_\_; Abstained, \_\_\_\_\_; or were Absent, \_\_\_\_\_.

WITNESS my hand officially this \_\_\_\_\_ day of April, 2022.

/s/ Martha L. Rehbein

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Martha L. Rehbein  
Legislative Services Director/City Clerk

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF VARIOUS PROPERTY SCHEDULES WITH RESPECT TO THE MASTER TAX-EXEMPT INSTALLMENT PURCHASE AGREEMENT WITH U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC. AND, FOR THE FINANCING OF VARIOUS ITEMS OF CAPITAL EQUIPMENT AND OTHER MATTERS IN CONNECTION THEREWITH**

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

WHEREAS, the City previously entered into a Master Tax-Exempt Installment Purchase Agreement, dated November 22, 2013 (the “Master Lease”), and the City now proposes to enter into various Property Schedules to the Master Lease (each a “Property Schedule” and together with the terms and conditions contained in the Master Lease, referred to individually herein as a “Lease”), with U.S. Bancorp Government Leasing and Finance, Inc. (the “Lessor”); and

WHEREAS, the Leases will provide financing for various items of capital equipment (the “Equipment”) for the essential governmental operations of the City on either a tax-exempt or taxable basis in the aggregate principal amount not to exceed \$6,500,000; and

WHEREAS, the various Property Schedule components of the Lease will provide for three, five, seven, and ten year leases to match the useful life of the capital equipment financed by each property schedule; and

WHEREAS, if the Lessor has provided City staff with indicative interest rates; and

WHEREAS, the City has taken or will take the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the financing of the Equipment; and

WHEREAS, by entering into the Leases, the City will exercise the powers under the Constitution and laws of the State of Montana pursuant to, inter alia, Montana Code Annotated, Section 7-1-4124, as amended; and

WHEREAS, the Equipment is essential for the City to perform its governmental functions; and

WHEREAS, the Leases are subject to annual non-appropriation, and the City Council has the right to terminate the Master Lease or any or all of the Property Schedules, in accordance with the terms thereof, at the end of any fiscal year; and

WHEREAS, in the event that the City Council does not appropriate funds to make payments on a Lease in any fiscal year, the City will lose the right to use and possess the Equipment financed or refinanced pursuant to that Lease.

NOW, THEREFORE, BE IT RESOLVED By the City Council of the City of Missoula, Montana as follows:

1. Approval of Financing Documents. It is found and determined that the terms of the Master Lease and the applicable Property Schedules and related documents, certificates, and instruments

(collectively, the “Financing Documents”) in the forms presented to this meeting and incorporated in this Resolution are in the best interests of the City for the financing of the Equipment and such Financing Documents are approved, subject to the limitations set forth in Section 3 below.

2. Authorized Officials. Each of the Mayor, the City Clerk, the City Finance Director/Treasurer, Chief Administrative Officer, or any other officer of the City who is authorized to execute contracts on behalf of the City are, and each of them is, authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the officers who execute the Financing Documents, and to determine that the parameters in Section 3 have been satisfied, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents.

3. Financing Parameters. The approval of the various Property Schedules in order to finance the Equipment is subject to the follow parameters: (i) the total aggregate amount of the Leases in order to finance the Equipment in an amount not to exceed \$6,500,000, (ii) the interest rates for each tax-exempt Property Schedule may not exceed (a) 3.00% for the 3 year Lease, (b) 3.25% for the 5 year Lease, (c) 3.50% for the 7 year Lease, and (d) 3.75% for the 10 year Lease, and (iii) the interest rates for each taxable Property Schedule may not exceed (a) 3.25% for the 3 year Lease, (b) 3.50% for the 5 year Lease, (c) 3.75% for the 7 year Lease, and (d) 4.00% for the 10 year Lease..

4. No Arbitrage. Until expended on the Equipment, the proceeds of the Leases will be deposited and utilized in conformance with the terms thereof. Payments on the Leases shall be made from annual appropriations made by the City Council in each fiscal year, and money to make such payment shall not be segregated in any special fund of the City. No portion of the proceeds of the tax-exempt Leases will be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments. In addition, the proceeds of the Leases and money used to make payments on the tax-exempt Leases shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the tax-exempt Leases to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

5. No General Obligation Pledge; Initial Appropriation. The Leases are not a general obligation of the City, but rather each Lease is payable from amounts to be annually appropriated, and the full faith, credit and taxing powers of the City are not pledged to the payment of the Leases. By other actions taken or to be taken with respect to the fiscal year 2022 and 2023 budgets, the City Council has appropriated or will appropriate funds sufficient to make the payments due on each Lease in fiscal years 2022 and 2023.

6. Records and Certificates. The officers of the City are authorized and directed to prepare and furnish to the Lessor and Ballard Spahr LLP, as bond counsel to the City, certified copies of all proceedings and records of the City relating to Leases and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the fact relating to the legality of the Leases, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

7. Negative Covenants as to Use of Proceeds and Equipment. The City covenants not to use the proceeds of the tax-exempt Leases or to use the Equipment related to such tax-exempt Leases, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Equipment, in such a manner as to cause any of the tax-exempt Leases to be a “private activity bond” within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Leases that would cause any of them to be “private activity bonds,” and the average term of each Lease is not longer than reasonably necessary for the governmental purpose. The

City covenants not to use the proceeds of the tax-exempt Leases in such a manner as to cause any of the tax-exempt Leases to be a “hedge bond” within the meaning of Section 149(g) of the Code.

8. Tax-Exempt Status of Leases; Rebate; Elections. If a Property Schedule/Lease is intended to be tax-exempt, the City shall comply with the requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the tax-exempt Lease. If any elections are available now or hereafter with respect to arbitrage or rebate matters relating to a tax-exempt Lease, the Mayor, the City Clerk, and the City Finance Director/Treasurer, or any of them, are authorized and directed to make such elections as they deem necessary, appropriate or desirable in connection with the Leases, and all such elections shall be, and shall be deemed and treated as, elections of the City.

9. Bond Counsel. Ballard Spahr LLP has been designated as bond counsel to the City with respect to the Leases and is hereby authorized to take all actions necessary to prepare necessary documents to permit the execution of each Lease and the financing of the Equipment.

10. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid, or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

11. Headings. Headings in this Resolution are included for convenience only and are not a part hereof. The headings in this Resolution are not intended to limit or define the meaning of any provision hereto.

Passed by the City Council of the City of Missoula, Montana, this 18th day of April, 2022.

/s/ John Engen

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John Engen  
Mayor

Attest:

/s/ Martha L. Rehbein

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Martha L. Rehbein  
Legislative Services Director/City Clerk