

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 Missoula Local Government Building Special District; creating the District to provide for the acquisition, ownership, improvement, maintenance, operation and administration of the Federal Building located at 200 East Broadway; and approving a related interlocal agreement"** (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 meeting on December 12, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Council members voted in favor thereof: \_\_\_\_\_  
\_\_\_\_\_; voted against the same: \_\_\_\_\_  
\_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this 12th day of December, 2022.

\_\_\_\_\_  
Martha L. Rehbein  
City Clerk

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

**Resolution relating to Missoula Local Government Building  
Special District; creating the District to provide for the  
acquisition, ownership, improvement, maintenance, operation  
and administration of the Federal Building located at 200 East  
Broadway; and approving a related interlocal agreement**

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

Section 1. Passage of Resolution of Intention. Pursuant to Montana Code Annotated, Title 7, Chapter 11, Part 10, as amended (the “Act”), including Section 7-11-1007 thereof, and following an initial public hearing held September 26, 2022, this Council adopted Resolution No. 8626 on September 26, 2022 (the “Resolution of Intention”), pursuant to which the Council declared its intention to create and establish, together with Missoula County, Montana (the “County”), a special district (the “District”) under the Act for the purpose of providing a single legal entity to acquire and own the Missoula Federal Building, located at 200 E. Broadway, Missoula, Montana (following such acquisition of ownership, the “Missoula Local Government Building”), and to provide a means of financing the improvement, maintenance, operation and administration of the Missoula Local Government Building, and to pay costs incidental thereto, including costs associated with the sale and security of special district bonds that may be issued from time to time.

Following an initial public hearing held by the County on September 27, 2022, the Board of County Commissioners of the County also adopted a resolution declaring its intention to create and establish, together with the City, the District for the purposes described above.

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was published and mailed in all respects in accordance with law, and on December 5, 2022, this Council conducted a public hearing on the creation of the District. At the hearing, this Council heard and passed on all protests made during the period ended 60 days after the first date of publication of the notice of passage of the Resolution of Intention (the “Protest Period”).

Section 3. Protests. The City has been notified by the County that within the Protest Period, no letters or petitions of protest were filed with the County Clerk and Recorder by owners of property within the proposed District.

Section 4. Creation of the District. This Council hereby approves creation of the District on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention and the Act. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

The limits and boundaries of the District are depicted on the map attached as Exhibit A hereto, and are coterminous with the boundaries of the land on which the Missoula Local Government Building is situated. Exhibit A also sets forth the legal description, the name and

address of the current owner and other information regarding the property included in the District.

The County held a public hearing and adopted a resolution approving the creation of the District on December 8, 2022. The City Clerk and City staff are authorized and directed to coordinate with the County Clerk and Recorder/Treasurer and County staff to (i) deliver a certified copy of this Resolution and the County's related resolution to the Secretary of State of the State of Montana in accordance with Section 7-11-1013(3) of the Act, (ii) deliver certified copies of the Resolution of Intention, the County's related resolution of intention, this Resolution and the County's related resolution to the Montana Department of Revenue in accordance with Section 7-11-1014 of the Act, and (iii) to take such further action as may be necessary or desirable in connection with the creation of the District.

Section 5. Approval of Interlocal Agreement. This Council further approves the Interlocal Agreement attached hereto as Exhibit B; authorizes and directs the Mayor and City Clerk to finalize, execute and deliver the Interlocal Agreement; and approves the administration of the District pursuant to the Interlocal Agreement. City officers and staff are authorized and directed to coordinate with County officers and staff to file the Interlocal Agreement with the County Clerk and Recorder/Treasurer and the Secretary of State.

PASSED AND ADOPTED by the City Council of the City of Missoula, Montana,  
this 12th day of December, 2022.

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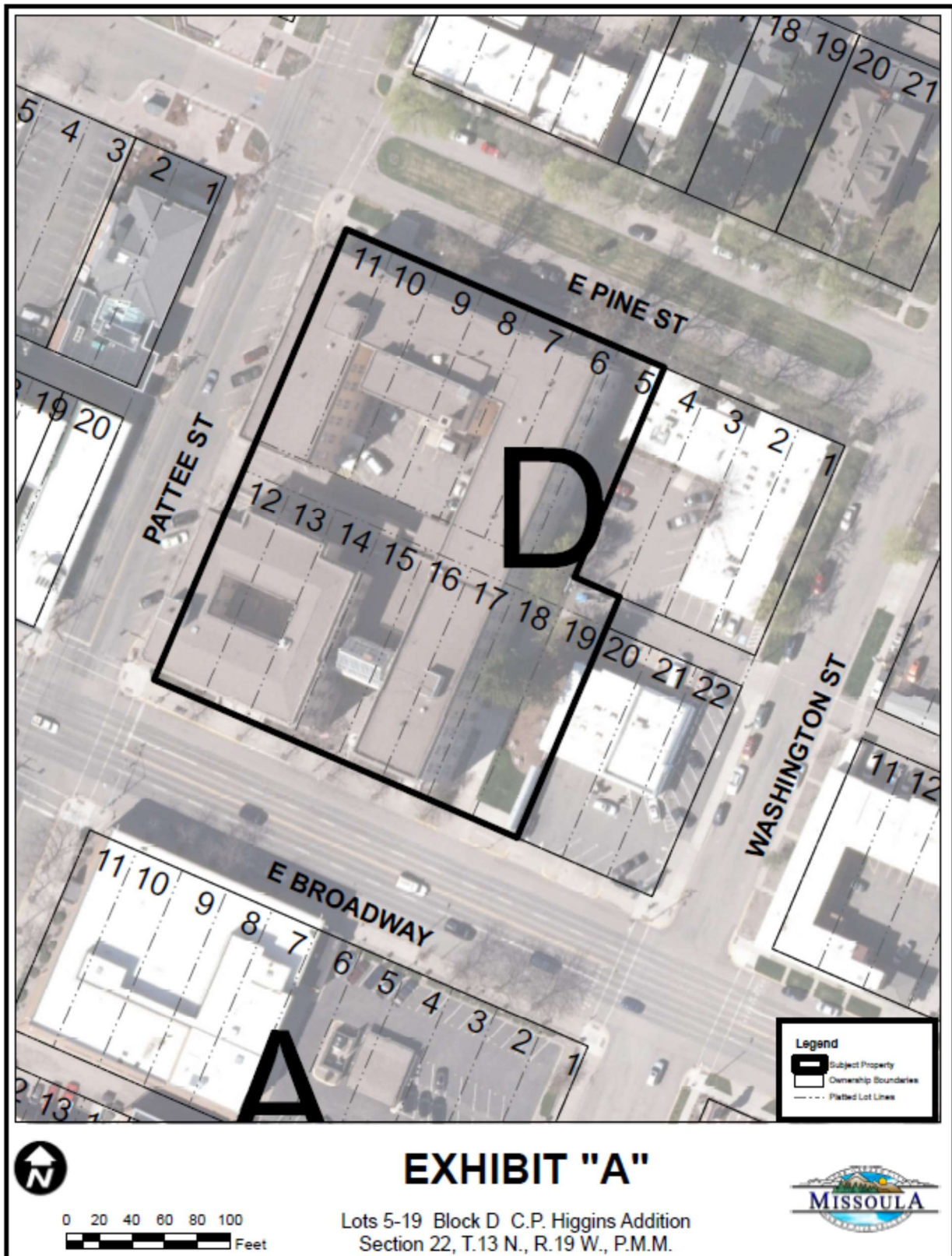
Mayor

Attest:

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City Clerk

EXHIBIT A



## Summary

### Primary Information

<b>Property Category:</b> RP	<b>Subcategory:</b> Government Property
<b>Geocode:</b> 04-2200-22-2-31-01-0000	<b>Assessment Code:</b> 0005908594
<b>Primary Owner:</b>	<b>Property Address:</b> 200 E BROADWAY
UNITED STATES POSTAL SERVICE & FEDERAL BLDG	MISSOULA, MT 59802
ATTN DAN HILL	<b>COS Parcel:</b>
HELENA, MT 59626-9713	

*NOTE: See the Owner tab for all owner information*

### Certificate of Survey:

**Subdivision:**CP HIGGINS

### Legal Description:

CP HIGGINS, S22, T13 N, R19 W, BLOCK D, Lot 5 - 19, & VACATED ALLEY

**Last Modified:**10/4/2022 8:24:02 PM

### General Property Information

<b>Neighborhood:</b> 204.805	<b>Property Type:</b> EP - Exempt Property
<b>Living Units:</b> 0	<b>Levy District:</b> 04-0583-1-1
<b>Zoning:</b>	<b>Ownership %:</b> 100

### Linked Property:

No linked properties exist for this property

### Exemptions:

No exemptions exist for this property

### Condo Ownership:

<b>General:</b> 0	<b>Limited:</b> 0
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## EXHIBIT B

[Form of Interlocal Agreement]

### **Interlocal Agreement for the Administration of the Missoula Local Government Building Special District**

**THIS AGREEMENT** is made and entered into by and between the **CITY OF MISSOULA, MONTANA**, a municipal corporation organized and existing under the laws of the State of Montana, 435 Ryman Street, Missoula, Montana 59802, hereinafter referred to as “City,” and **MISSOULA COUNTY, MONTANA**, 200 W. Broadway Avenue, Missoula, Montana 59802, hereinafter referred to as “County,” collectively referred to as “Parties.”

#### **RECITALS**

1. On or about June 28, 2021, the City, on behalf of the Parties, applied to the National Park Service (“NPS”) and General Services Administration (“GSA”) to receive the Missoula Federal Building located at 200 East Broadway Street (“Federal Building”) as a historic monument transfer; and
2. Pursuant to NPS and GSA regulations governing historic monument transfers, the City and County must designate a single legal entity to receive title to the building; and
3. The Parties desire to create a Special District pursuant to 7-11-1001, et seq., Montana Code Annotated (“MCA”), that will serve as the single legal entity to receive and hold title to the Federal Building (the Special District is hereinafter referred to as the “Missoula Local Government Building Special District”) and which may undertake such activities as the improvement, maintenance, operation and administration of the Missoula Local Government Building; and
4. The Parties now wish to enter into a joint Interlocal Agreement to outline rights, duties, obligations, and responsibilities of the Parties with respect to the Missoula Local Government Building Special District.

#### **AGREEMENT**

Pursuant to the authority granted by 7-11-104, MCA and 7-11-1022, MCA, the parties hereto agree as follows:

1. **Purpose:** The purpose of this Agreement is to establish the rights, duties, obligations, and responsibilities of each party to this Agreement with respect to the Missoula Local Government Building Special District.
2. **Effective Date:** This Agreement will become effective with respect to the Missoula Local Government Building Special District upon the action by the governing bodies of each Party to pass a resolution ordering the creation of the Special District encompassing the Federal Building property; however, Sections 6, 7, 8, 10, 11, 18 and 19 shall not become effective until fee title ownership of the Federal Building is transferred to the Missoula Local Government Building Special District. In the event that fee title ownership of the Federal Building is not transferred by NPS and GSA to the Missoula Local Government Building Special District within 1 year of the creation of the Missoula Local Government Building Special District, the Parties may terminate this Agreement by resolution of the City Council and Board of County Commissioners.
3. **Duration:** This Agreement will remain in place until such time as it is amended, terminated in accordance with Section 2, or upon the dissolution of the Missoula Local Government Building Special District in accordance with this Agreement and state law.
4. **Special District:** This Agreement applies to the following described property:

Lots 5-19 and the adjacent vacated alley, Block D, C.P. Higgins Addition to the City of Missoula, Missoula County, Montana, according to the official plat thereof on file and of record in the Missoula County Clerk and Recorder's Office. ("the Property" or "Federal Building Property").

The unit of local government created by the resolution creating the Missoula Local Government Building Special District and administered pursuant to this Agreement shall be a Special District, governed by the provisions of Part 10, Chapter 11, Title 7, MCA.

5. **Administrative Body of the Special District:** The Missoula Local Government Building Special District shall be administered and operated by one representative of each governing jurisdiction. Unless otherwise directed by resolution of that Party's governing body, the representatives shall be the Chief Administrative Officer of the City and the Chief Administrative Officer of the County, referred to herein as the "Administrative Body". The Administrative Body shall have all powers and duties with respect to the Local Government Building Special District as described in Part 10, Chapter 11, Title 7, MCA.
6. **Fiscal Agent:** The County will be the fiscal agent with respect to the Missoula Local Government Building Special District and will provide all the necessary administrative and accounting services. The Missoula Local Government Building Special District financial information will be audited at the same time as the fiscal agent undergoes its regular audits. The Fiscal Agent shall reflect and charge the district's budget the reasonable costs for work performed for the special district.



## **7. Financing and Budget:**

- a. *Budget Components:*** The budget for the administration of the Missoula Local Government Building Special District will consist of the following:
  - i.** Maintenance and operation of the Property, including any insurance coverage purchased by the Missoula Local Government Building Special District;
  - ii.** Legal and other professional fees related to the Missoula Local Government Building Special District;
  - iii.** Payment of debt service and any other amounts owing with respect to any indebtedness or contractual obligations of the Missoula Local Government Building Special District;
  - iv.** Such additional appropriations as approved by the City Council and Board of County Commissioners from time to time;
  - v.** Any revenue which is derived from operation of the building, such as leases.
- b. *Budget Approval:*** Each year, the Administrative Body shall present the proposed budget for approval by the City Council and the Board of County Commissioners. The budget may be adopted at a joint City-County public meeting, or it may be approved by each Party separately. The proposed budget presentation for the Missoula Local Government Building Special District must include the following (if applicable):
  - i.** The rental fees derived from the Property.
  - ii.** Provision for payment of debt service and any other amounts owing with respect to indebtedness or other contractual obligations of the Missoula Local Government Building Special District.
  - iii.** Changes to the square footage allocations for the Federal Building.
  - iv.** Proposed maintenance and improvement projects.
  - v.** Proposed acquisitions of tangible property.
  - vi.** Recommended budget priorities.
  - vii.** Recommended financing for each proposed project or acquisition.
  - viii.** Proposed policies and procedures for operation of the Missoula Local Government Building Special District.
- c. *Assessments:*** Following approval of the budget by the City Council and Board of County Commissioners, the County shall levy assessments, or, if applicable, impose fees, for the costs and expenses of the Missoula Local Government Building Special District, based on the approved budget. Costs shall be assessed equally against each lot or parcel of land within the Missoula Local Government Building Special District. The Missoula Local Government Building Special District is the only owner of property within the Missoula Local Government Building Special District, and, except as described under (c)(ii) below, all assessments against the Missoula Local Government Building Special District will be paid by the Parties based on the Allocation of Costs (as hereinafter defined).

d. *Budget Amendments:* All mid-year budget amendments are subject to approval by the City Council and the Board of County Commissioners.

e. *Loan Financing:*

- i. The Administrative Body will seek approval from Missoula City Council and the Board of County Commissioners for any financing benefiting the joint areas of the Property.
- ii. If any project or purchase proposed is by one Party, and that project or purchase is recommended to be financed through a loan or other financing mechanism, the Administrative Body will determine which Party will be responsible for repayment of the loan based on the benefit provided by the project/purchase. Assessments levied against the Missoula Local Government Building Special District to make such loan payments will be allocated to the Party responsible for the loan, unless an alternative arrangement is reached by the Administrative Body. The Property cannot be used to secure any such loan; however, this restriction shall not be construed to prevent lease purchase financing.

8. **Allocation of Costs:** Each Party will pay an annually allocated share of ongoing joint building-related costs and of the assessments to be levied against the Missoula Local Government Building Special District as described in Section 7 based upon their respective square footage of separate office area as it relates to the combined square footage of both separate office areas, with the County's share at 50 percent and the City's share at 50 percent (hereinafter referred to as the "Allocation of Costs") unless and until the Administrative Body shall make a different determination. This Allocation of Costs governs each Party's share of the costs of shared or common space on the Property. In the event of disagreement whether a cost is attributable to the separate office area costs outlined below, or included in the joint-building related costs, a third party with expertise in architectural design shall be commissioned by the Administrative Body to make a recommendation to the Administrative Body.

9. **Contractual Agreements:** The Administrative Body will enter into any contractual agreements necessary for joint operation, administration, maintenance, or improvement of the Federal Building following the procurement process adopted by the Administrative Body. All bid awards are subject to approval by the Administrative Body. Unless otherwise agreed to in writing by the City and County, all contract costs shall be allocated based upon the Allocation of Costs.

10. **Leases to Third Parties:** The Administrative Body may recommend leasing such portion of the Federal Building as may be appropriate to third parties. All leases must be in writing and approved by the Administrative Body before any portion of the Federal Building may be leased. All lease agreements must contain provisions with respect to the tenant's rights

and responsibilities regarding leasehold improvements. Revenue from leases must be applied to building operations, maintenance, repair, redevelopment, historic preservation or capital improvements. Any revenues from joint areas of the building will be applied to costs of owning and operating the building prior to and without regard for Allocation of Costs. Any revenues from areas allocated to either the City or County separately shall be credited to the costs allocated to that party. Any Party seeking to lease a portion of their separate office area shall first offer the space to the other Party for their operational use prior to offering it to non-Parties. If tax-exempt financing has been utilized with respect to the Missoula Local Government Building Special District, the Administrative Body will consult with Bond Counsel prior to leasing any portion of the Federal Building to any third party.

**11. Insurance:** Each Party shall provide insurance coverage for official actions or inactions of their officers, employees, or agents, as well as the personal property of each Party within the building. Liability insurance shall be procured by the Missoula Local Government Building Special District to protect the entity from any and all claims for bodily injury, including death, and property damage arising out of the use or operation of the Federal Building. This liability insurance policy shall be primary and not seek contribution from insurance held by the City or County. The policy shall name the City and County as loss payee's. The Missoula Local Government Building Special District must also obtain fire, casualty, and extended coverage insurance for the building and any fixtures attached thereto in an amount not less than the estimated replacement cost of the building and the fixtures, and the insurance shall name the City and County as loss payee's. Insurance premiums will be paid out of the Missoula Local Government Building Special District budget and shall be assessed to each Party based on the Allocation of Costs.

**12. Indemnification:** County shall defend, indemnify and hold harmless the City, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of County, its employees or agents, occasioned, growing out of, or in any way arising from the Parties participation in this Agreement.

City shall defend, indemnify and hold harmless County, its employees and agents, from all claims, liabilities, demands, causes of action or judgments, including costs and attorney fees, asserted by or awarded to third parties as a result of any negligent action or omission or willful misconduct of the City, its employees or agents, occasioned, growing out of, or in any way arising from the Parties participation in this Agreement.

**13. Records Access and Retention:** Parties agree to provide to each other access to any records created, obtained, or maintained by the Parties with respect to the Properties.

**14. Supersedes all Prior Agreements:** This Agreement replaces and supersedes any and all prior agreements between the Parties with respect to the Missoula Local Government

Building Special District.

- 15. Dispute Resolution:** In the event the Administrative Body is unable to resolve any disagreement concerning the operation and management of the Missoula Local Government Building Special District, or the interpretation of this Agreement, the Administrative Body shall cause the matter to be heard by each Parties' Governing Body, which shall attempt to finally resolve the matter. In the event the Governing Bodies are unable to informally resolve the matter, the Parties shall submit to binding mediation, to be conducted by a mediator jointly selected by the Parties.
- 16. No Assignment, Transfer, or Delegation:** Neither Party may assign, transfer, or delegate, their rights, duties, or obligations pursuant to this Agreement without prior express written consent of the other Party.
- 17. Amendments in Writing:** All amendments to this Agreement must be in writing and executed by all parties to this Agreement and are subject to approval by the City Council and the Board of County Commissioners.
- 18. Dissolution of the Missoula Local Government Building Special District:** Either party may initiate dissolution of the Missoula Local Government Building Special District after first providing 180 days written notice of such intent to the other party. Such notice shall include a record of the governing body's decision to pursue dissolution, and shall be provided by post to the governing body of the other party. Dissolution of the Missoula Local Government Building Special District must be pursuant to § 7-11-1029, MCA, as amended, and any other applicable state law. The dissolution of the Missoula Local Government Building Special District may not relieve the Parties from the assessment and payment of a sufficient amount to liquidate all charges and indebtedness existing against the Missoula Local Government Building Special District prior to the date of dissolution.
  - a. Negotiated Separation. At the time a party gives notice of an intent to dissolve, the parties shall attempt to negotiate an amicable separation that addresses: ongoing ownership of the Property; outstanding debts of the Missoula Local Government Building Special District; any payments needing to be made; and any other issues necessary to resolve and wind up the Special District. If both parties agree that it is beneficial to keep the Special District intact, the party desiring to dissolve could instead negotiate the sale of its interest in the Federal Building pursuant to the process laid out in this Section, with that Party remaining as a member of the Special District but with its allocation of costs and share of the benefits and burdens reduced to zero, or some other mutually agreed upon figure, along with other necessary amendments to this Interlocal as mutually agreed to.
  - b. Accounting of Contributions. In the event the parties are unable to come to an amicable separation, the parties shall engage a third-party accounting firm that shall be charged with identifying each party's capital contributions to the Missoula Local Government Building Special District as best as can reasonably be determined according to Generally Accepted Accounting Principles ("GAAP"). During any

such process, no value shall be associated with the building or the Property itself (as it was acquired for nominal consideration), only the contributions made by the parties to the improvement and rehabilitation of the Property shall be considered fiscal contributions, net of depreciation calculated in accordance with GAAP. A party may not initiate dissolution under § 7-11-1029, MCA, as amended, until the value of the dissolving party's capital contribution to the Missoula Local Government Building Special District has been determined. The capital contributions identified through this effort shall be deemed to provide the value of each party's interest in the Property. In conducting this effort, the following understandings shall control the accounting process:

- i. The third-party accounting firm shall make all judgments relative to the materiality threshold of any errors or omissions using the GAAP definition of materiality.
  - ii. The third-party accounting firm shall utilize the straight-line method to calculate depreciation.
  - iii. The third-party accounting firm shall determine the useful life of assets based on Appendix B of IRS Publication 946: How to Depreciate Property.
  - iv. The parties shall annually exchange capital investment schedules pertinent to the Federal Building.
- c. Payment of Dissolving Party's Interest. Subject to the authority and procedures in § 7-8-101, MCA, as amended, a party who passes a resolution dissolving the Missoula Local Government Building Special District is entitled to the full value of that Party's depreciated capital contribution to the Property, as determined in above, that must be paid in annual installments over a period of years to be set the discretion of the non-dissolving party according to a long-term financing instrument, which shall be subject to appropriations, but in no event shall the payment period be longer than 21 years. The parties shall execute a settlement agreement containing the payment terms identified herein. Upon execution of the settlement agreement and making the initial (first year) cash payment 90 days after the dissolution resolution, the dissolving party must quit claim its interest in the Property to the other party.
- d. Sale of the Federal Building Property. In the event the non-dissolving party determines it is unwilling or unable to make the payment(s) outlined above, the parties shall endeavor to sell the Property prior to dissolving the Missoula Local Government Building Special District. Such a sale may occur using any means available in state law, but the sale must comply with any applicable restrictions imposed by the National Park Service or any other restrictions imposed by federal law. Upon sale of the Property, proceeds of the sale will be split according to the value of each party's interest as determined above. If tax-exempt financing has been utilized with respect to the Missoula Local Government Building Special District, the Parties will consult with Bond Counsel prior to selling any portion of the Federal Building to any third party.

- 19. Termination of Agreement:** So long as the Property is owned by the Missoula Local Government Building Special District, this Agreement can only be terminated upon the written agreement of both Parties.
- 20. Governing Law and Venue:** This Agreement and any extensions hereof shall be governed and construed in accordance with the laws of the State of Montana. If a dispute arises, the proper venue for the hearing of the case is the District Court of the Fourth Judicial District of the State of Montana, in and for Missoula County.
- 21. Headings:** The section headings contained in this Agreement are for reference purposes only and do not affect the meaning or interpretation of the Agreement.
- 22. Severability:** If any term or provision of this Agreement is held to be illegal, void or in conflict with any Montana law, the validity of the remaining terms and conditions shall not be affected. The rights and obligations of the Parties shall be construed and enforced as if this Agreement did not contain the part held to be invalid.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**FOR THE CITY OF MISSOULA:**

**By:** \_\_\_\_\_  
**Jordan Hess, Mayor**

**ATTEST:**

**APPROVED AS TO FORM:**

**By:** \_\_\_\_\_  
**Martha L. Rehbein, CMC**

**By:** \_\_\_\_\_  
**Jim Nugent, City Attorney**

Seal

**FOR MISSOULA COUNTY:**

**By:** \_\_\_\_\_  
**Juanita Vero, Chair, Board of County Commissioners**

**By:** \_\_\_\_\_  
**Josh Slotnick, Board of County Commissioners**

**By:** \_\_\_\_\_  
**Dave Strohmaier, Board of County Commissioners**

**By:** \_\_\_\_\_  
**Tyler Gernant, Missoula County Clerk and Recorder**

Seal