

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 a Resolution entitled: "RESOLUTION OF INTENTION TO ADOPT AN ORDINANCE APPROVING THE EXPANSION OF PARK 2 AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA – 2008 (THE "DISTRICT"); TO APPROVE THE PREPAYMENT OF THE PARK 2 LEASE PURCHASE AGREEMENT WITH PROCEEDS OF THE SALE OF PARK 4 AND PROCEEDS OF PARKING REVENUE REFUNDING BONDS (THE "BONDS"); TO APPROVE THE PLEDGE OF TAX INCREMENT REVENUES OF THE DISTRICT TO THE REPAYMENT OF THE BONDS; AND CALLING A PUBLIC HEARING THEREON" (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 July 9, 2012, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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: Cromley, Ronquillo, Pitman, Cimmino, McFadden, Bird, McCall, Ulledalen, Astle, and Crouch voted against the same: none abstained from voting thereon: none; or were absent: none.

WITNESS my hand and seal officially this 9th day of July, 2012.

(SEAL)



Cari Martin
City Clerk

RESOLUTION NO. 12-19185

RESOLUTION OF INTENTION TO ADOPT AN ORDINANCE APPROVING THE EXPANSION OF PARK 2 AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA – 2008 (THE “DISTRICT”); TO APPROVE THE PREPAYMENT OF THE PARK 2 LEASE PURCHASE AGREEMENT WITH PROCEEDS OF THE SALE OF PARK 4 AND PROCEEDS OF PARKING REVENUE REFUNDING BONDS (THE “BONDS”); TO APPROVE THE PLEDGE OF TAX INCREMENT REVENUES OF THE DISTRICT TO THE REPAYMENT OF THE BONDS; AND CALLING A PUBLIC HEARING THEREON

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

Section 1. Recitals and Authorization.

1.01 Pursuant to the provisions of Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43 (the “Act”) and Ordinance No. 05-5333 adopted on July 11, 2005, the Council created the North 27th Street District Urban Renewal Area as an urban renewal district, and approved the North 27th Street Urban Renewal Plan (the “North 27th Street Plan”). The Council adopted Ordinance Nos. 06-5394 and 08-5483 on November 13, 2006 and December 8, 2008, respectively, which expanded the boundaries of the District and amended the North 27th Street Plan to create the Expanded North 27th Street Urban Renewal Area – 2008 (the “District”).

1.02 The North 27th Street Plan states that it is necessary to use tax increment financing to encourage private reinvestment within the District, which will further encourage economic growth in the District and downtown Billings, create substantial employment opportunities, and increase the tax base of the City and other taxing jurisdictions. The North 27th Street Plan further provides for the segregation of tax increment derived in the District and the use of such tax increment as authorized by the Act and the North 27th Street Plan from time to time, including, without limitation, pledging the tax increment to the repayment of bonds.

1.03 The North 27th Street Plan further provides that parking is a significant need and a primary objective of the District and details significant deficiencies in parking infrastructure throughout the District. The North 27th Street Plan also identifies parking structures to support current and future needs within the District as appropriate projects which could be financed by the tax increment revenue of the District.

1.04 In 2010, the City commissioned a study by Rich and Associates, Inc. of parking in downtown Billings (attached hereto as Exhibit A) (the “Parking Study”). The Parking Study identifies parking shortages in certain locations in downtown Billings, which may be further compounded by proposed and potential future growth, including the new Federal courthouse building. In order to help address parking needs in downtown Billings, on June 13, 2011, the Council, pursuant to Resolution No. 11-19060, declared its preliminary intention to build a new

parking garage in the District at the intersection of Montana Avenue and North 27th Street (the "Empire Parking Garage"). The Council declared the proposed Empire Parking Garage as an urban renewal project within the meaning of the Act and declared the proposed Empire Parking Garage as a project eligible for financing from tax increment of the District.

1.05 Although parking shortages exist in certain locations in downtown Billings, the City's Park 4 parking garage, located in the District at the intersection of 6th Avenue North and North 31st Street ("Park 4"), is significantly under-utilized. Park 4 is located outside of the primary downtown Billings business corridor and is used primarily for long-term employee parking by a single employer. The Parking Study noted a 58% occupancy rate at Park 4, primarily attributable to its location and the availability of significant surface parking options in the vicinity. The Parking Study suggests that the City could obtain higher and better use of its capital resources by selling Park 4 and using the funds to undertake new parking in higher demand locations. Park 4 is wholly-owned by the City.

1.06 Park 4 was originally constructed in 1984 using tax increment funds of a now-terminated tax increment financing district (the "Sunsetted District"). The Sunsetted District terminated in March 2008 and tax increment funds remaining in the Sunsetted District's accounts at the time of such termination were distributed among the various taxing bodies as required by Montana Code Annotated, Section 7-15-4292. From time to time the City receives tax increment funds of the Sunsetted District attributable to delinquent or protested taxes, which the City promptly distributes among the various taxing bodies.

1.07. Pursuant to Montana Code Annotated, Section 7-15-4263, a municipality may dispose of real property in an urban renewal area to private persons under reasonable procedures as it shall proscribe or as provided by statute. The North 27th Street Plan specifically contemplates the sale of Park 4, and since 2009 the City has been actively engaged in efforts to sell Park 4. In March 2010, the City publicly solicited proposals for the sale of Park 4. On May 14, 2012, the Council authorized the sale of Park 4 to United Industries/United Properties for \$2,620,000, which amount was determined to be the fair market value of the property pursuant to an independent appraisal. The sale of Park 4 is expected to close on or about July 1, 2012.

1.08 The City is a party to that certain Lease Purchase Agreement (the "Park 2 Lease Purchase Agreement"), dated August 31, 2006, between the City and Capital One, N.A., as successor to Koch Financial Corporation. The Park 2 Lease Purchase Agreement was entered into in order to finance the 2006 expansion of the City's Park 2 parking garage (the "Project"), located in the District at the intersection of 2nd Avenue North and North 26th Street ("Park 2"). Amounts due under the Park 2 Lease Purchase Agreement are secured by and payable solely from parking revenues of the City. The original aggregate principal amount payable under the Park 2 Lease Purchase Agreement was \$5,930,000, of which \$4,979,186 and remains outstanding.

1.09 Parking revenues of the City are insufficient to pay the annual lease payments under the Park 2 Lease Purchase Agreement and reserves in the City Parking Fund have been used for such purposes. The City Parking Fund has been further depleted as a result of increased operating costs and capital expenditures.

1.10 The City Parking Advisory Board has requested that the City refinance the Park 2 Lease Purchase Agreement in order to achieve lower annual payments with respect to amounts owing thereunder. Such refinancing would be achieved by (i) applying Park 4 sale proceeds to amounts due under the Park 2 Lease Purchase Agreement and (ii) applying the proceeds of parking revenue refunding bonds to the repayment of the remaining amounts due under the Park 2 Lease Purchase Agreement. The parking revenue refunding bonds would be issued by the City and be payable primarily from parking revenues. The City Parking Advisory Board has also requested that the City declare the Project as an urban renewal project under the Act in order to apply \$100,000 annually of tax increment from the District toward the repayment of such parking revenue refunding bonds.

1.11 There are no bonds or other obligations outstanding that are payable in whole or in part from or secured by parking revenues, other than (i) the Park 2 Lease Purchase Agreement and (ii) Property Schedule No. 2 to the Master Tax-Exempt Installment Purchase Agreement between the City and U.S. Bank National Association, dated as of October 28, 2011, entered into in order to finance the cost of construction and installation of certain energy improvement in the City's parking garages.

1.12 There are no bonds or other obligations outstanding that are payable in whole or in part from or secured by tax increment revenues of the District, although the City has declared its preliminary intention to build the Empire Parking Garage using tax increment revenues of the District. Tax increment revenues of the District in fiscal year 2011 were approximately \$1,525,000 and tax increment revenues of the District in fiscal year 2012 are anticipated to be at least \$1,800,000.

1.13 Park 2 is located in the primary downtown Billings business corridor. Park 2 was an urban renewal project of the Sunsetting District, originally constructed in 1983 using tax increment funds of the Sunsetting District. The 2006 expansion of Park 2 (the Project) was undertaken in order to provide additional public parking capacity to serve employees and customers of the Wells Fargo Tower. The utilization rate at Park 2 is presently 112% of capacity, with extensive waiting lists for leased parking spaces. In addition, a significant portion of the City's off-street hourly parking revenue is derived from Park 2. The City expects significantly increased demand at Park 2 when the new Federal courthouse building is complete.

1.14 Pursuant to Montana Code Annotated, Section 7-14-4502, the City has the authority to issue parking revenue bonds for the payment of lots or lands and facilities for use as parking areas for motor vehicles, payable in whole or in part from the revenues of any such parking lots or areas or parking facilities or from other sources. Pursuant to Montana Code Annotated, Section 7-15-4288, tax increment may be used by the City to pay costs of the acquisition, construction and improvement of parking lots and off-street parking facilities in connection with an urban renewal project.

1.15 Prior to the approval of the Project as an urban renewal project, the Council is required to conduct a public hearing in accordance with Montana Code Annotated, Section 7-15-4214, and make certain findings set forth in Montana Code Annotated, Section 7-15-4217.

Section 2. Findings with Respect to Disposition of Park 4. Based on the foregoing, the City Council hereby finds that the sale of Park 4 at a price of \$2,620,000 constitutes fair value therefor and the disposition of Park 4 is a reasonable, proper and fair procedure for the disposition of property in the District. Based on the forgoing representations, Park 4 sale proceeds shall be deposited into the City's Parking Fund and be applied to the prepayment of amounts due under the Park 2 Lease Purchase Agreement.

Section 3. Preliminary Findings with Respect to the Project. Based on the forgoing representations and subject to the public hearing called for herein, the Council hereby finds, with respect to the Project, as follows:

- (a) the construction of the Project eliminated blight in the Sunsetting District and the District;
- (b) the taxable value of property in the District is increased by the availability of sufficient public parking for employees and customers;
- (c) the Project provides significant additional public parking in the primary downtown Billings business corridor, thereby enhancing the rehabilitation and redevelopment of the District by private enterprise;
- (d) no persons were displaced from their housing by the construction of the Project;
- (e) the North 27th Street Plan and the Project conform to the comprehensive plan and growth policy of the City;
- (f) the North 27th Street Plan and the Project afford maximum opportunity consistent with the needs of the City as a whole for the rehabilitation and redevelopment of the District by private enterprise;
- (g) there is a workable and feasible plan of financing for the Project as more particularly described in Section 4 hereof; and
- (h) the Project constitutes an urban renewal project within the meaning of the Act and the North 27th Street Plan and the Project is eligible for financing from the tax increment of the District.

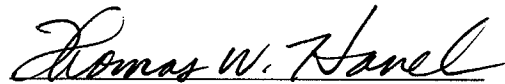
Section 4. Plan of Financing. The City will apply Park 4 sale proceeds to amounts due under the Park 2 Lease Purchase Agreement. The remaining amounts due under the Park 2 Lease Purchase Agreement, including any accrued interest and premium thereon, shall be repaid with proceeds of parking refunding revenue bonds in the estimated aggregate principal amount of \$2,600,000 (the "Bonds"). Subject to the public hearing called for herein, the City shall pledge tax increment from the District to the City Parking Fund to be used for the repayment of the Bonds in the annual amount of \$100,000. Based on historical tax increment of the District, there are sufficient funds available to pledge such tax increment annually to the repayment of the Bonds over a 20 year term. In addition to such funds, the City Parking Advisory Board is

examining reductions in operating expenses and increases in meter rates and fines, all of which will improve parking revenues to be used to repay the Bonds.

Section 5. Public Hearing; Notice. A public hearing is hereby called and shall be held on Monday, July 23, 2012 at 6:30 p.m. in the Council chambers with respect to the Project. The Council hereby authorizes and confirms the authority of the City Clerk to publish or cause to be published a notice of public hearing in the *Billings Gazette*, a newspaper of general circulation in the county on July 6 and July 13, 2012.

Section 6. Reading of Ordinance. The first reading of the Ordinance substantially in the form attached as Exhibit B hereto (the "Ordinance") shall occur at the public hearing called for herein. The second reading of the Ordinance shall occur at the Council's regular meeting on or about August 13, 2012, and it is the Council's intention that the Ordinance will be voted upon conclusion of such meeting.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 9th day of July, 2012.


Thomas. W. Hanel, Mayor

Attest: Cari Martin
Cari Martin, City Clerk

(SEAL)



Exhibit A

2010 Parking Study

(On file in the City Clerk's Office)

EXHIBIT B

CERTIFICATE AS TO ORDINANCE 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 ordinance is a true copy of an Ordinance entitled: "ORDINANCE APPROVING THE PARK 2 EXPANSION AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA - 2008; AND AUTHORIZING A PORTION OF THE FINANCING THEREOF WITH TAX INCREMENT REVENUES" (the "Ordinance"), on file in the original records of the City in my legal custody; that the Ordinance was duly presented for first reading by the City Council of the City at a regular meeting on July 23, 2012, 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 Ordinance has not as of the date hereof been amended or repealed.

WITNESS my hand and seal officially this 23rd day of July, 2012.

(SEAL)

City Clerk

I further certify that the Ordinance was duly adopted on second reading by the City Council of the City at a special meeting on August 13, 2012, 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 Ordinance has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Ordinance 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 13th day of August, 2012.

(SEAL)

City Clerk

ORDINANCE NO. _____

ORDINANCE APPROVING THE PARK 2 EXPANSION AS AN URBAN RENEWAL PROJECT IN THE EXPANDED NORTH 27TH STREET URBAN RENEWAL AREA - 2008; AND AUTHORIZING A PORTION OF THE FINANCING THEREOF WITH TAX INCREMENT REVENUES

NOW, WHEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

WHEREAS, on July 11, 2005, the City Council adopted Ordinance No. 05-5333, which created the North 27th Street District Urban Renewal Area as an urban renewal district and approved the North 27 Street Urban Renewal Plan (the "North 27th Street Plan") containing a tax increment financing provision.

WHEREAS, on November 13, 2006 and December 8, 2008, the City Council adopted Ordinance Nos. 06-5394 and 08-5483, respectively, which expanded the boundaries of the North 27th Street Urban Renewal Area and amended the North 27th Street Plan to create the Expanded North 27th Street Urban Renewal Area – 2008 (the "District").

WHEREAS, in adopting the North 27th Street Plan, the City noted the need for additional public parking in the District, and the North 27th Street Plan contemplates the development of additional parking in the District.

WHEREAS, the North 27th Street Plan determined it necessary to use tax increment financing to encourage private reinvestment within the District, and provided for the segregation of the tax increment; and the North 27th Street Plan further contemplates the use of tax increment received in the District to finance the costs of development projects approved by the Council, including issuing bonds secured by the tax increment, as a way of encouraging private investment, and development and redevelopment in the District.

WHEREAS, this Council on July 23, 2012, conducted a public hearing on a proposal with respect to an urban renewal project in the District and to finance a portion of the costs thereof with tax increment revenues under Montana Code Annotated, Title 7, Chapter 15, Parts 42 and 43, as amended (the "Act").

Section 1. Recitals.

1.01 The City is a party to that certain Lease Purchase Agreement (the "Park 2 Lease Purchase Agreement"), dated August 31, 2006, between the City and Capital One, N.A., as successor to Koch Financial Corporation. The Park 2 Lease Purchase Agreement was entered into in order to finance the 2006 expansion of the City's Park 2 parking garage (the "Project"), located in the District at the intersection of 2nd Avenue North and North 26th Street ("Park 2"). Amounts due under the Park 2 Lease Purchase Agreement are secured by and payable solely from parking revenues of the City. The original aggregate principal amount payable under the Park 2 Lease Purchase Agreement was \$5,930,000, of which \$4,979,186 remains outstanding.

1.02 Parking revenues of the City are insufficient to pay the annual lease payments under the Park 2 Lease Purchase Agreement and reserves in the City Parking Fund have been used for such purposes. The City Parking Fund has been further depleted as a result of increased operating costs and capital expenditures.

1.03 The City Parking Advisory Board has requested that the City refinance the Park 2 Lease Purchase Agreement in order to achieve lower annual payments with respect to amounts owing thereunder. Such refinancing would be achieved by (i) applying proceeds of the sale of the City's Park 4 parking garage, located in the District at the intersection of 6th Avenue North and North 31st Street ("Park 4"), to the repayment of amounts due under the Park 2 Lease Purchase Agreement and (ii) applying the proceeds of parking revenue refunding bonds to the repayment of the remaining amounts due under the Park 2 Lease Purchase Agreement. The parking revenue refunding bonds would be issued by the City and be payable primarily from parking revenues. The City Parking Advisory Board has also requested that the City declare the Project as an urban renewal project under the Act in order to apply \$100,000 annually of tax increment from the District toward the repayment of such parking revenue refunding bonds.

1.04. Pursuant to the Act and the procedures contained in the North 27th Street Plan, and Resolution No. [], adopted July 9, 2012, the City has set forth its intention to use tax increment in an amount sufficient to finance a portion of the Project.

1.05. Pursuant to Resolution No. [], a public hearing was duly noticed and held on July 23, 2012, at which all persons wishing to speak were given the opportunity to address the Council with respect to approval of the Project as an urban renewal project and to finance a portion of the costs thereof with tax increment revenues.

Section 2. Findings. The Council hereby finds, with respect to the Project, as follows:

- (a) the Project enhances rehabilitation and redevelopment of the District by private enterprise, and the construction of the Project eliminated blight in the Sunsetting District and the District;
- (b) the taxable value of property in the District is increased by the availability of sufficient public parking for employees and customers;
- (c) the loss of Park 2, including the Project, will substantially negatively affect the rehabilitation and redevelopment of the District by significantly reducing public parking in the primary downtown Billings business corridor;
- (d) no persons were displaced from their housing by the construction of the Project;
- (e) the Urban Renewal Plan and the Project conform to the comprehensive plan and growth policy of the City;

(f) the Urban Renewal Plan and the Project afford maximum opportunity consistent with the needs of the City as a whole for the rehabilitation and redevelopment of the District by private enterprise;

(g) there is a workable and feasible plan of financing for the Project as more particularly described in Section 4 hereof; and

(h) the Project constitutes an urban renewal project within the meaning of the Act and the Urban Renewal Plan and the Project is eligible for financing from the tax increment of the District.

Section 3. Approval of Project and Financing. The Project is hereby approved as an urban renewal project. The Council further approves the use of \$100,000 annually of tax increment from the District to finance a portion of the costs of the Project.

Section 4. Effective Date. This Ordinance shall take effect from and after 30 days of its passage by the City Council and approval by the Mayor.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, on the second reading this 13th day of August, 2012.

Mayor

Attest: _____
City Clerk