

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 RELATING TO A PROJECT ON BEHALF OF ROCKY MOUNTAIN COLLEGE AND THE ISSUANCE OF REVENUE BONDS TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; GRANTING PRELIMINARY APPROVAL THERETO; AND CALLING A PUBLIC HEARING ON SUCH BONDS AND PROJECT" (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 February 28, 2011, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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: Ronquillo, Gaghen, Pitman,
Cimmino, McFadden, Ruegamer, McCall, Ulledalen, Astle, Clark; voted
against the same: none; abstained
from voting thereon: none; or were absent: none.

WITNESS my hand officially this 28th day of February, 2011.

(SEAL)



Cari Martin
City Clerk

RESOLUTION NO. 11-19032

RESOLUTION RELATING TO A PROJECT ON BEHALF OF ROCKY MOUNTAIN COLLEGE AND THE ISSUANCE OF REVENUE BONDS TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; GRANTING PRELIMINARY APPROVAL THERETO; AND CALLING A PUBLIC HEARING ON SUCH BONDS AND PROJECT

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

Section 1. Recitals.

1.01. Pursuant to Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended (the "Act"), the City is authorized to enter into agreements upon terms the Council considers appropriate, advantageous and not in conflict with the provisions of the Act to issue revenue bonds of the City and sell such bonds at public or private sale in such manner and at such times as may be determined by the Council to be most advantageous; and to loan the proceeds of its revenue bonds for the purpose of defraying the cost of acquiring or improving real and personal properties required or useful for the operation of an institution of higher education. Such revenue bonds may be secured by a pledge of the revenues to be derived by the City from a loan agreement, by a mortgage on the project and by such other security devices as the Council may deem advantageous. Under the provisions of the Act, any bonds so issued by the City shall be special, limited obligations of the City and shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

1.02. Rocky Mountain College, a Montana nonprofit corporation (the "Borrower"), which is an institution of higher education within the State of Montana, has proposed that the City, pursuant to the Act, issue its revenue bonds in an approximate aggregate principal amount not to exceed \$2,620,000 (the "Bonds"), the proceeds of which will be loaned by the City to the Borrower to finance a portion of the costs of acquisition, construction and installation of energy efficiency improvements to various buildings and facilities located on the Rocky Mountain College campus (the "Project"), and to pay certain costs associated with the sale of the Bonds and any other eligible costs. The campus of the Borrower is located at 1511 Poly Drive in Billings, Montana. The total cost of the Project is estimated to be \$2,620,000. The Borrower will enter into a performance contract with Johnson Controls, Inc. to complete the Project (the "Energy Performance Contract"). The maximum aggregate principal amount of the Bonds will not exceed \$2,620,000. The Energy Performance Contract will guarantee the Borrower energy savings of at least \$4,165,490 over a 16-year period, or an average of \$260,343 per year.

1.03. The Bonds will be secured by a pledge of the revenues to be derived by the City from a loan agreement with the Borrower and by such other security devices, if any, as may be deemed advantageous or necessary by the Borrower, the City and the purchaser of the Bonds. The Bonds will be special, limited obligations of the City, and the Bonds and interest thereon will be payable solely from the revenues pledged to the payment thereof. No holder of any of

the Bonds will have the right to compel any exercise of the taxing power of the City to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City except funds or assets the Borrower pledged to the City and to the payment of the Bonds.

Section 2. Preliminary Findings. Based on representations made by representatives of the Borrower to the City, the Council hereby makes the following preliminary findings, determinations and declarations, subject to final findings, determinations and declarations following the public hearing called pursuant to Section 4:

(a) The Project, as proposed, will improve a higher education facility eligible for financing under the Act.

(b) The City is authorized by the Act to issue the Bonds to defray the costs of making a loan to the Borrower, the proceeds of which will be used to finance a portion of the costs of the Project and to pay certain costs associated with the sale of the Bonds and any other eligible costs, and to enter into a loan agreement (the "Loan Agreement") with the Borrower requiring loan repayments from the Borrower in amounts and at times sufficient to pay the principal of, premium, if any, and interest on the Bonds when due and requiring the Borrower to pay all costs of maintaining and insuring the Project, including taxes thereon to the extent applicable.

(c) PNC Equipment Finance, LLC has agreed to purchase the Bonds.

(d) The loan repayments to be made by the Borrower under the Loan Agreement, shall be established at a level and payable in installments at times sufficient to pay all principal of, premium, if any, and interest on the Bonds when due.

(e) The loan shall be secured by such security as the purchaser and the Borrower shall agree.

(f) In preliminarily authorizing the Project and the issuance of the Bonds, the City's purpose is, and the Council believes the effect thereof will be, to promote the general welfare of the City and its residents by encouraging and fostering the location of institutions of higher education and their continued viability within the City by making the Project more financially feasible because of tax-exempt financing, to encourage energy efficiencies at such institutions, to aid in economic development and to further the purposes and policies of the Act.

(g) The undertaking of the Project and the issuance of the Bonds to finance all or a portion of the costs thereof are in the public interest.

Section 3. Preliminary Approval. This Council hereby gives preliminary approval to the Project in the approximate aggregate principal amount of \$2,620,000 to finance all or a portion of the costs thereof, subject to final approval following the public hearing provided for in Section 4, and subject to compliance by the Project with applicable local, state and federal rules, regulations and ordinances, and the Borrower obtaining all necessary local, state and federal

permits, licenses and approvals, if any, for the Project, and subject to final approval by the Council that the financing of the Project is in the best interest of the City.

Section 4. Public Hearing. Section 90-5-104 of the Act and Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), require that, prior to the issuance of the Bonds a public hearing duly noticed shall be held by the City on the proposed Project. Pursuant to such authority, a public hearing is hereby called and shall be held on March 28, 2011 at 6:30 p.m. in the Council Chambers on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana, on the proposed Project and the issuance of Bonds to finance the costs thereof. The notice shall be published at least once a week for 3 consecutive weeks in the *Billings Times*, the official newspaper of the City and published in Yellowstone County, Montana, in substantially the form set forth as Exhibit A hereto.

Section 5. Costs. The Borrower will pay, or upon demand reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds, whether or not the Project is carried to completion and whether or not the Bonds are issued, including without limitation, the City's initial fee and administrative fee

Section 6. Commitment Conditional. The adoption of this resolution does not constitute a guarantee or a firm commitment that the City will issue the Bonds as requested by the Borrower. If, based on comments received at the public hearing to be held pursuant to this resolution, or other information made available to or obtained by the City during its review of the application and the Project, it appears that the Project or the issuance of Bonds to finance the costs thereof is not in the public interest or consistent with the purposes of the Act, or that the Borrower is unable to obtain the necessary approvals referred to in Section 3, the City reserves the right not to give final approval to the issuance of the Bonds. The City also retains the right, in its sole discretion, to withdraw from participation and accordingly not issue the Bonds should the Council, at any time prior to the issuance thereof, determine that it is in the best interests of the City not to issue the Bonds or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents for the transaction.

Section 7. Reimbursement of Costs Paid Before Bonds Are Issued.

(a) The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, such as the Bonds, all or a portion of which are to be used to reimburse the Borrower for Project expenditures paid by the Borrower prior to the date of issuance of the Bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse the Borrower from proceeds of the Bonds for an original expenditure not later than 60 days after payment of the original expenditure. Representatives of the Borrower have advised the City that the Borrower may undertake the Project and pay costs thereof before the Bonds are issued, recognizing the preliminary and conditional nature of the commitment of the City to issue the Bonds.

The Regulations also generally require that the Bonds be issued and the reimbursement allocation be made from the proceeds of the Bonds within 18 months after the later of (i) the date the expenditure is paid or (ii) the date the Project is placed in service or abandoned, but in no

event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) By this resolution and based on representations of the Borrower, the City declares its official intent to reimburse the expenditures made for costs of the Project from proceeds of the Bonds after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(c) Based on representations of the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have heretofore been paid by the Borrower.

(d) Based on representations of the Borrower, there are no Borrower funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Project, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is consistent with the Borrower's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

Adopted this 28th day of February, 2011.



CITY OF BILLINGS, MONTANA

Thomas W. Hanel
Thomas W. Hanel, Mayor

Attest: *Cari Martin*
Cari Martin, City Clerk

EXHIBIT A

CITY OF BILLINGS, MONTANA

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Billings, Montana (the "City"), will hold a public hearing on March 28, 2011, at 6:30 p.m., M.T., at Council Chambers on the second floor of the Police Facility, 220 North 27th Street, Billings, Montana, for the purpose of conducting a public hearing on a proposal that the City issue economic development revenue bonds in an approximate aggregate principal amount not to exceed \$2,620,000 (the "Bonds") under Montana Code Annotated Title 90, Chapter 5, Part 1, as amended (the "Act"), on behalf of Rocky Mountain College, a Montana nonprofit corporation (the "Borrower").

The proceeds of the Bonds will be loaned by the City to the Borrower to finance a portion of the costs of acquisition, construction and installation of energy efficiency improvements (the "Project"), and to pay certain costs associated with the sale of the Bonds and any other eligible costs. The Project will be located on the campus of the Borrower, which is located at 1511 Poly Drive in Billings, Montana.

The Bonds will be secured by a pledge of the revenues to be derived by the City from a loan agreement with the Borrower and by such other security devices, if any, as may be deemed advantageous, including a mortgage or trust indenture on the Project. The Bonds will be a special, limited obligation of the City, and the Bonds and interest thereon will be payable solely from the revenues of the Borrower pledged to the payment thereof. No holder of any of the Bonds will have the right to compel any exercise of the taxing power of the City to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the City except money payable by the Borrower to the City and pledged to the payment of the Bonds.

Any interested persons may appear and will be heard at the public hearing at the time and place stated above or may file written comments with the City Clerk prior to the date of such hearing. Further information regarding the proposal is on file and available for public inspection in the office of the City Clerk at City Hall.

For additional information on the proposed resolution, contact: Bruce McCandless, Assistant City Administrator or Patrick M. Weber, Financial Services Manager, City of Billings, 210 North 27th Street, Billings, Montana, 59103 or by calling 657-8207.

Dated: February 28, 2011

BY ORDER OF THE CITY COUNCIL
OF THE CITY OF BILLINGS,
MONTANA

Publication Dates: March 3, 2011
 March 10, 2011
 March 17, 2011