

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 a Resolution No. 6817 entitled: "RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED MODIFICATION OF THE MISSOULA URBAN RENEWAL PLAN FOR URBAN RENEWAL DISTRICT II (THE URBAN RENEWAL PLAN) TO APPROVE A PROPOSED PROJECT AS AN URBAN RENEWAL PROJECT AND SET FORTH THE COUNCIL'S INTENTION TO FINANCE A PORTION OF THE PROJECT THROUGH THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL BONDS" (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 on July 26, 2004, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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: Ballas, Charney, Childers, Crowley, Engen, Floyd, Kazmierczak, Kendall, Lovegrove, Nicholson, Reidy, Rye ; voted against the same: none; abstained from voting thereon: none; or were absent: none.

WITNESS my hand and seal officially this 26th day of July, 2004.

(SEAL)

/s/ Martha L. Rehbein

City Clerk

## RESOLUTION NO. 6817

### **RESOLUTION CALLING A PUBLIC HEARING ON THE PROPOSED MODIFICATION OF THE MISSOULA URBAN RENEWAL PLAN FOR URBAN RENEWAL DISTRICT II (THE URBAN RENEWAL PLAN) TO APPROVE A PROPOSED PROJECT AS AN URBAN RENEWAL PROJECT AND SET FORTH THE COUNCIL'S INTENTION TO FINANCE A PORTION OF THE PROJECT THROUGH THE ISSUANCE OF TAX INCREMENT URBAN RENEWAL BONDS**

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

#### Section 1. Recitals; Authorizations; Previous Approvals.

1.01. The Council pursuant to Ordinance No. 2803 (the "Ordinance") adopted on December 16, 1991, created its Urban Renewal District II (the "District") and adopted an urban renewal plan for the District (the "Urban Renewal District II Plan" or the "Plan"). The Plan, as adopted, contains a tax increment financing provision all as set forth in the Ordinance in accordance with Montana Code Annotated (MCA), Title 7, Chapter 15, Parts 42 and 43, as amended ("the Act").

1.02. On August 7, 2000, the City advertised through a public Request For Proposals process with regard to the private development of the City's former vehicle maintenance facility site ("City Shops Site") (Lots 1 thru 10 in Block 47 of McCormick's Addition to the City of Missoula, and Lots 6 – 20 in Block 48 of McCormick's Addition to the City of Missoula). By Resolution No. 6351, the Council selected the proposal submitted by St. Patrick Hospital and Health Sciences Center of Missoula (the "Hospital") which included land adjacent to the City Shops Site, specifically Lots 11 – 20, Block 47 of McCormick's Addition to the City of Missoula, and Lots 1 – 5, Block 48 of McCormick's Addition to the City of Missoula (collectively, with the City Shops Site, the "Project Site"). The proposed project consists of the purchase by Hospital of the City Shops Site from the City and subsequent demolition of existing structures thereon; site clearing; environmental remediation of soils; upgrade and extension of basic utilities to the Project Site including water, sewer, electrical, telecommunications, and storm drain system; construction of new curb, gutter, and sidewalks within the adjacent public rights-of-way; installation of a public trail along the east side of the Project Site; and the construction by Safeway Corporation Inc. ("Safeway") of a new grocery store, fuel kiosk, and landscaped parking area on the Project Site (the "Project").

1.03. The Project as proposed required the rezoning of the Project Site. Upon the approval and recommendation of the City-County Planning Board, the Council, on September 22, 2003, pursuant to Ordinance No. 3234 entitled *An Ordinance to Rezone Property Described as Blocks 47 and 48, W.J. McCormick's Addition as well as a Portion of Nora Street, the Platted Alleys, and a 20-Foot Wide Portion of Pine Street Within and Adjacent to Blocks 47 And 48 of W.J. McCormick's Addition ("Broadway-Scott Gateway Special District")* (the "Ordinance") rezoned the Project Site to allow the Project. Pursuant to Ordinance 3234, a portion of the Project Site is zoned for residential use.

1.04. On September 22, 2003, by Resolution 6711, Council conditionally vacated portions of rights-of-way within and adjacent to the Project Site in furtherance of the Project.

1.05. The Missoula Redevelopment Agency (the "MRA") has reviewed the Project and found that in its opinion the Project meets the criteria of an urban renewal project within the meaning of the Act.

1.06. The City has entered into an agreement, dated June 29, 2004, with the Hospital pursuant to which the Hospital has agreed to purchase the City Shops Site and the City has agreed to sell the property to the Hospital, subject to certain conditions as set forth therein.

1.07. If the Project is approved as an urban renewal project, the City proposes to issue up to \$1,500,000 of Tax Increment Urban Renewal Bonds, to be used to pay the costs of eligible Project activities under Section 7-15-4288, Montana Code Annotated, to include: relocation of persons displaced from housing by the Project; demolition and removal of structures; site clearing; environmental remediation of soils; upgrade and extension of basic utilities to the Project Site including water, sewer, electrical, telecommunications, and storm drain system; construction of new curb, gutter, and sidewalks within the adjacent public right-of-ways; and installation of a public trail along the east side of the Project Site; design, engineering, testing, and survey work necessary to accomplish those items; and to establish the necessary reserves and pay for the costs of the sale and issuance of the Bonds.

1.08. If the Project is approved as an urban renewal project, it is proposed that the City would enter into a development agreement with the Hospital and Safeway (the "Development Agreement"), which would include the following provisions:

- a) the agreement by Safeway to construct a new grocery store facility consisting of a retail store of approximately 50,000 square feet, a fuel kiosk and a landscaped parking area on the Project Site at an estimated taxable value sufficient to produce the amount of tax increment necessary to pay the principal of and interest on the Bonds to be issued;
- b) the agreement by Safeway to pay as due all taxes levied against its property;
- c) the agreement by either Safeway or the Hospital to make a deficiency tax payment or payment in lieu of taxes if the actual amount of taxes generated by the Project in any year is not adequate to pay the principal of and interest on the Bonds issued by the City for the Project;
- d) the maximum amount of the Bonds to be issued and the list of eligible activities to be financed; and
- e) any other provisions as may be required by the Council, the City Attorney, bond counsel, or to assure the sale and issuance of the Bonds.

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

- a. subject to the execution of a Development Agreement, a workable and feasible plan exists for making available adequate housing for any persons who may be displaced by the Project;
- b. the Plan, as modified to include the Project, conforms to the comprehensive plan or parts thereof of the City;
- c. the Plan, as modified to include the Project, will afford maximum opportunity, consistent with the needs of the City as a whole, for the rehabilitation or redevelopment in the District by private enterprise;
- d. subject to the execution of a Development Agreement among the City, Safeway and the Hospital, consistent with Section 1.08 hereof, a sound and adequate financial program will exist for the financing of the Project, which program includes the City's use of Tax Increment Bond proceeds in an amount not to exceed \$1,500,000 which final amount shall be determined by both the tax increment funds projected to be generated by the Project and the actual cost of eligible items to be funded by the Bond proceeds.
- e. the Project constitutes an urban renewal project within the meaning of the Act and the Plan.

Section 3. Development Agreement. The MRA shall prepare and negotiate the Development Agreement with the Hospital and Safeway. A draft of the Development Agreement shall be presented to the City Council for its approval. Upon approval by the Council, the Mayor and the Director of the Missoula Redevelopment Agency shall be authorized to execute the Development Agreement.

Section 4. Public Hearing. A public hearing is hereby called and shall be held on Monday, August 23, 2004 at 7:00 p.m. in the Council chambers on the proposed modification of the City's Urban Renewal Plan to approve the Project. The public hearing on the Project previously scheduled for July 26, 2004 is hereby vacated. It is anticipated that the City will issue its Tax Increment Urban Renewal Bonds the amount of \$1,500,000. The Bonds will be payable from the tax increment derived from the Project.

Section 5. Notice. Notice of the public hearing shall be published in the *Missoulian* on August 1 and 8, 2004 in substantially the form attached as Exhibit A hereto (which is incorporated by reference and made a part hereof).

PASSED AND APPROVED by the City Council of the City of Missoula, Montana, this 26<sup>th</sup> day of July, 2004.

ATTEST:

/s/ Martha L. Rehbein

Martha L. Rehbein

City Clerk

APPROVED:

/s/ Mike Kadas

Mike Kadas

Mayor

## EXHIBIT A

NOTICE OF PUBLIC HEARING ON MODIFICATION OF  
MISSOULA URBAN RENEWAL PLAN TO APPROVE A  
CERTAIN PROJECT AS AN URBAN RENEWAL PROJECT

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Missoula, Montana (the "City") will hold a public hearing on the modification of the City's Urban Renewal District II Plan (the "Urban Renewal Plan") to approve the Safeway/St. Patrick Project as an urban renewal project on August 23, 2004 at 7:00 p.m., at the Council Chambers in the Missoula City Hall, Missoula, Montana.

On August 7, 2000, the City advertised through a public Request For Proposals process with regard to the private development of the City's former vehicle maintenance facility site ("City Shops Site") (Lots 1 thru 10 in Block 47 of McCormick's Addition to the City of Missoula, and Lots 6 – 20 in Block 48 of McCormick's Addition to the City of Missoula). By Resolution No. 6351, the Council selected the proposal submitted by St. Patrick Hospital and Health Sciences Center of Missoula (the "Hospital") which included land adjacent to the City Shops Site, specifically Lots 11 – 20, Block 47 of McCormick's Addition to the City of Missoula, and Lots 1 – 5, Block 48 of McCormick's Addition to the City of Missoula (collectively, with the City Shops Site, the "Project Site").

The proposed project consists of the purchase by Hospital of the City Shops Site from the City and subsequent demolition of existing structures thereon; site clearing; environmental remediation of soils; upgrade and extension of basic utilities to the Project Site including water, sewer, electrical, telecommunications, and storm drain system; construction of new curb, gutter, and sidewalks within the adjacent public rights-of-way; installation of a public trail along the east side of the Project Site; and the construction by Safeway Corporation Inc. of a new grocery store, fuel kiosk, and landscaped parking area on the Project Site (the "Project").

It is proposed that the City will issue and sell its urban renewal tax increment bonds (the "Bonds") in an amount sufficient, but not to exceed \$1,500,000, to fund a portion of the project as hereinafter described, if the modification of the Urban Renewal Plan is approved.

Any interested persons may appear and will be heard or may file written comments with the City Clerk prior to such hearing.

Dated: July 26, 2004.

---

## City Clerk

Publication Dates: August 1, 2004  
August 8, 2004