

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being duly qualified and acting recording officer of City of Livingston, Park County, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "A RESOLUTION OF THE CITY COMMISSION SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF LIVINGSTON, MONTANA, THE QUESTION OF THE ISSUANCE OF A GENERAL OBLIGATION BOND IN A PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000 FOR THE PURPOSE OF FUNDING THE CONSTRUCTION OF ONE OR MORE SEPARATED GRADE RAIL CROSSING AND RELATED INFRASTRUCTURE; AND TAKING CERTAIN OTHER ACTIONS WITH RESPECT THERETO" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Commission at a regular meeting on August 3, 2021, and that the meeting was duly held by the City Commission 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Commission members voted in favor thereof

*Dorel Hoglund, Quentin Schwarz, Mel Friedman, Warren Mabie*

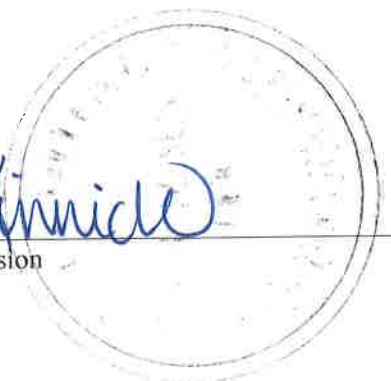
voted against the same:

abstained from voting thereon:

or were absent: *Melissa Nootz*

WITNESS my hand officially this 3<sup>rd</sup> Day of August 2021.

*Jacelynn*  
Clerk of the Commission



**RESOLUTION NO. 4988**

A RESOLUTION OF THE CITY COMMISSION SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF LIVINGSTON, MONTANA, THE QUESTION OF THE ISSUANCE OF A GENERAL OBLIGATION BOND IN A PRINCIPAL AMOUNT NOT TO EXCEED \$20,000,000 FOR THE PURPOSE OF FUNDING THE CONSTRUCTION OF ONE OR MORE SEPARATED GRADE RAIL CROSSING AND RELATED INFRASTRUCTURE; AND TAKING CERTAIN OTHER ACTIONS WITH RESPECT THERETO

WHEREAS, a Montana city or town is authorized pursuant to Montana Code Annotated, Section 7-7-4101 to borrow money for the purpose of acquiring, opening, or widening any street and improvements to the street and to pay for any portion of the cost relating to the project; and

WHEREAS, pursuant to Title 7, Chapter 7, Part 42, as amended (the "Act") to issue general obligation bonds or incur indebtedness for any purpose authorized by the electors of such jurisdiction provided that the amount of all outstanding indebtedness of the municipality does not exceed two and one-half percent (2.5%) of the total assessed value of taxable property in the municipality as determined by Montana Code Annotated Section 15-8-11, as amended and as ascertained by the last assessment for state and county taxes; and

WHEREAS, the City Commission of the City has determined that need exists for the construction and equipping of one or more separated grade railroad crossings and related infrastructure and indirect costs such as water and sewer extensions and traffic circulation improvements to serve the City (the "Railroad Crossing Project") and the citizen electorate has the right to determine whether the City will issue one or more series of general obligation bonds in an original aggregate principal amount not to exceed \$20,000,000 (the "Bonds") for the purpose of funding the construction of the Railroad Crossing Project and the costs of issuance of the Bonds; and

WHEREAS, pursuant to Section 7-7-4223 of the Act, a governing body of a municipality is authorized to call a bond election by adopting a resolution to that effect; and

WHEREAS, the City Commission has determined that the issuance of the Bonds in an amount not to exceed \$20,000,000, plus the outstanding general obligation indebtedness of the City, will not cause the City to exceed its indebtedness limitation set forth in Section 7-7-4201 of the Act; and

WHEREAS, pursuant to this resolution, the City is notifying the County Clerk and Recorder of Park County, as Election Administrator (as defined below) of the City's intent to have the electorate determine if the issuance of the Bonds in order to fund the Railroad Crossing Project should be put in front of the electors at the general election to be held on November 2, 2021; and

WHEREAS, the notification by the City to the Election Administrator of the City's intention to hold the Election is not less than eighty-five (85) days prior to the date of the proposed election; and

WHEREAS, the Election Administrator, will prepare a ballot election plan relating to the proposed issuance of the Bonds in order to fund the Railroad Crossing Project, and the Election Administrator shall submit the Ballot Plan to the Montana Secretary of State as required by law; and

WHEREAS, the City Commission has determined that it is necessary and desirable to submit to the electors of the City the question of the issuance of the Bonds in order to fund the Railroad Crossing Project in an original aggregate principal amount not to exceed \$20,000,000; and

WHEREAS, it is the judgment of the City Commission that the sum of \$20,000,000, along with other funds of the City which may include special improvement district bonds, if necessary, is estimated to be necessary to construct the Railroad Crossing Project and attendant infrastructure; and

WHEREAS, it is the judgment and determination of the City Commission that the Bonds issued to fund the Railroad Crossing Project will be payable during a term not to exceed twenty (20) years and shall be redeemable as determined as by the City Commission.

NOW, THEREFORE, BE IT RESOLVED By the City Commission of the City as follows:

1. Calling the Election. This City Commission has determined that there shall be submitted to the electors of the City the question of whether or not the City Commission shall be authorized to issue the Bonds in order to fund the Railroad Crossing Project and pay costs of issuance of the Bonds. The ballot question shall be on the issuance of the Bonds in order to fund the Railroad Crossing Project in an original aggregate principal amount not to exceed twenty million dollars and 00/100 cents (\$20,000,000). The City Commission hereby calls a special City election (the "Bond Election") to be held in conjunction with the general election on Tuesday, November 2, 2021 for the purpose of voting on authorizing the issuance of the Bonds in order to fund the Railroad Crossing Project.

The Bond Election shall be held in conformance with Montana Code Annotated Title 13, Chapter 1, Part 4, as amended.

The date of the Election is not less than eighty-five (85) days after the passage of this resolution. The term of the Bonds shall not exceed twenty (20) years. The proposed Bonds will be general obligations of the City to which the City pledges its full, faith and credit and taxing power.

2. Ballots. The ballot language for the Bond Election should be in substantially the form attached to this resolution as EXHIBIT B. The Election Administrator is hereby requested to prepare suitable ballots for use in the Election as prescribed by Montana law.

3. Estimated Costs. The estimated cost of the Railroad Crossing Project (not including costs of issuance) payable from the proceeds of the Bonds shall be \$20,000,000. A portion of the cost of the Railroad Crossing Project shall be payable from other legally available resources of the City, which may include the proceeds of special improvement district bonds.

4. Debt Limitations. The issuance of the Bonds in an original aggregate principal amount not to exceed twenty million dollars and 00/100 cents (\$20,000,000), along with the outstanding general obligation indebtedness of the City as of July 1, 2021, shall not cause the City to exceed the City's debt limitation contained in Section 7-7-4201 of the Act.

The amounts for debt limitation calculations listed above under the Act are as of July 2021. Under the Act, the debt limitation calculations made prior to issuance of general obligation bonds are as of the last assessment for state and county taxes prior to the issuance of bonds. By the time that the Bonds are issued by the City, the debt limitations for the City on the date of issuance of the Bonds may be higher than the current debt limitations for the City listed above.

5. Resolution on File with Election Administrator. The Clerk of the Commission is hereby directed to file a copy of this resolution, including the ballot language, with the Election Administrator.

6. Notice of Election. The Clerk of the Commission and the Election Administrator are hereby authorized and requested to cause notice of the call and holding of the Election to be given by publishing notice at least once a week for the three (3) consecutive weeks before the Election in the *Livingston Enterprise*, the official newspaper of the City and a newspaper of general circulation in the City as required by Montana Code Annotated, Section 13-1-108. The notice of election shall be in substantially the form attached to this resolution as EXHIBIT A.

7. Conduct of Election. All qualified electors of the City shall be entitled to vote at the Bond election. The Election Administrator is hereby authorized and requested to cause notice of the call and holding of the Election to be given by publishing notice at least once a week for the three (3) consecutive weeks before the Election in the *Livingston Enterprise*, the official newspaper of the City and a newspaper of general circulation in the City as required by Montana Code Annotated, Section 13-1-108.

8. Reimbursement Expenditures. The United States Department of the Treasury has promulgated final regulations governing the use of the proceeds of tax-exempt bonds, such as the Bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid prior to the date of issuance of the Bonds.

Those regulations (Treasury Regulations, Section 1.150-2) (the "Reimbursement Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than sixty (60) days after payment of the original expenditure. The Reimbursement Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds occur within eighteen (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 Reimbursement Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Bonds.

To the extent any portion of the proceeds of the Bonds will be applied to expenditures with respect to the acquisition of the Equipment, the City reasonably expects to reimburse the City for the expenditures made for costs of the Equipment from the proceeds of the Bonds after the date of payment of all or a portion of such expenditures. All reimbursed expenditures shall be capital expenditures, costs of issuance of the Bonds, or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Reimbursement Regulations and also qualifying expenditures under the Act.

This resolution is intended to constitute a declaration of official intent for purposes of the Reimbursement Regulations and any successor law, regulation, or ruling.

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PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF LIVINGSTON,  
MONTANA, THIS THIRD DAY OF AUGUST, 2021.

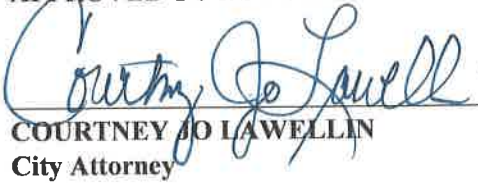


DOREL HOGLUND- CHAIR

ATTEST:

  
FAITH KINNICK  
Recording Secretary

APPROVED TO AS FORM:

  
COURTNEY JO LAWELLIN  
City Attorney

**EXHIBIT A**

**NOTICE OF BOND ELECTION**

CITY OF LIVINGSTON, MONTANA

\_\_\_\_\_, 2021

General Obligation Bonds

NOTICE IS HEREBY GIVEN by the City Commission (the "City Commission") of the City of Livingston, Montana (the "City"), that pursuant to a certain resolution duly adopted at a regular meeting of the City Commission on August 3, 2021, an election of the registered voters will be held in and for the City on Tuesday, November 2, 2021, for the purpose of voting on the question whether or not the City Commission of the City shall be authorized to issue and sell general obligation bonds (the "Bonds") of the City in the amount not to exceed Twenty Million and No/100 Dollars (\$20,000,000) for the purpose of the construction and equipping of one or more separated grade railroad crossings and related infrastructure and indirect costs such as water and sewer extensions and traffic circulation improvements to serve the City (the "Railroad Crossing Project"). The Bonds shall bear interest at a rate to be determined by the City Commission, payable semiannually over a term commensurate with the useful life Railroad Crossing Project to be financed, but not to exceed twenty (20) years and redeemable as determined by the City Commission. The costs associated with the issuance of the Bonds will also be paid from Bond proceeds.

The Bond Election will be conducted at a special bond election held in conjunction with the general election.

[ADDITIONAL INFORMATION AS REQUIRED BY THE ELECTION ADMINISTRATOR]

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

Park County Election Administrator

[Dates of Publication in the *Livingston Enterprise* 3 times on consecutive weeks]

**EXHIBIT B**

**FORM OF BALLOT**

**CITY OF LIVINGSTON, MONTANA  
GENERAL OBLIGATION BOND ELECTION**

NOVEMBER 2, 2021

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "FOR ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS" if you wish to vote for the general obligation bond issue. If you are opposed to the general obligation bond issue make an X or similar mark in the square before the words "AGAINST ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS."

**GENERAL OBLIGATION BONDS**

Shall the City Commission of the City of Livingston, Montana (the "City") be authorized to issue and sell general obligation bonds (the "Bonds") of the City in the original aggregate principal amount not to exceed Twenty Million and No/100 Dollars (\$20,000,000) the construction and equipping of one or more separated grade railroad crossings and related infrastructure and indirect costs such as water and sewer extensions and traffic circulation improvements to serve the City (the "Railroad Crossing Project"). Proceeds of the Bonds will also pay the costs associated with the issuance and sale of the Bonds. The Bonds shall bear interest at a rate to be determined by the City Commission, payable semiannually over a term commensurate with the useful life of the Railroad Crossing Project to be financed, but not to exceed twenty (20) years and redeemable as determined by the City Commission. [Based upon information from the most recent tax year, if the Bonds are issued, then the additional annual tax that would be applied to a home with a market value of \$100,000 would be \$137.48 and the additional annual tax that would be applied to a home with a market value of \$200,000 would be \$274.96.]

- FOR ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS
  
- AGAINST ISSUANCE AND SALE OF GENERAL OBLIGATION BONDS