

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Great Falls, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 10332, entitled: "RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN PUBLIC SAFETY RADIO SYSTEM EQUIPMENT AND APPROVING A LEASE-PURCHASE AGREEMENT IN CONNECTION THEREWITH" (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 of the City of Great Falls at a regular meeting on March 17, 2020 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Commission Members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand officially this 17th day of March, 2020.

(SEAL)

City Clerk

RESOLUTION NO. 10332

RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN
PUBLIC SAFETY RADIO SYSTEM EQUIPMENT APPROVING
A LEASE-PURCHASE AGREEMENT IN CONNECTION
THEREWITH

BE IT RESOLVED by the City Commission (the “Commission”) of the City of Great Falls, Montana (the “City”), as follows:

Section 1. Recitals and Authorization.

1.01. The City proposes to acquire new public safety radio system equipment (the “Radio Equipment”) for use in providing essential government public safety services. The total cost of the Radio Equipment is estimated to be \$1,992,460.00. In order to finance the acquisition of the Radio Equipment, the City proposes to enter into an Equipment Lease-Purchase Agreement with Motorola Solutions, Inc., as lessor (the “Lessor”), substantially in the form attached hereto as Exhibit A (the “Lease-Purchase Agreement”).

1.02. The lease payments payable by the City pursuant to the Lease-Purchase Agreement (the “Lease Payments”) shall constitute current expenses of the City’s and shall be paid, and other obligations of the City thereunder shall be met, solely from the amount appropriated by the Commission for such purpose in the City’s annual budget, and shall constitute a current expense of the City for such fiscal year then in effect. The Lease-Purchase Agreement shall not constitute an indebtedness, liability or mandatory payment obligation of the City within the meaning of any constitutional or statutory provision.

Section 2. Approval of Acquisition of Radio Equipment and Lease-Purchase Agreements.

2.01. The City hereby approves the acquisition of the Radio Equipment. All actions heretofore taken by officers of the City in connection with the acquisition of the Radio Equipment, to the extent not inconsistent with the provisions of this Resolution, are hereby ratified, approved and confirmed.

2.02. It is hereby determined that financing the acquisition of the Radio Agreement pursuant to the terms and conditions of the Lease-Purchase Agreement is in the best interest of the City. The City hereby approves the form of the Lease-Purchase Agreement. Each of the Mayor, the City Manager and the Fiscal Services Director is hereby authorized and directed to approve, execute and deliver to the Lessor the Lease-Purchase Agreement, with such modifications thereto as may be approved by the officer or officers executing the same, which approval shall be conclusively evidenced by the execution thereof. Each of the Mayor, the City Manager and the Fiscal Services Director is also authorized to enter into and deliver such other documents and certificates as may be necessary or desirable in connection therewith, in the opinion of Dorsey & Whitney LLP, as special counsel to the City, or as may be reasonably required by the Lessor.

Section 3. Tax Matters.

3.01. General Covenant. The City covenants and agrees that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the portion of the Lease Payments designated as interest to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the Lease Payments designated as interest will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

3.02. Radio Equipment. The Radio Equipment is and will be owned and operated by the City and used by the City to provide essential governmental public safety services for the benefit of members of the general public. No user of the Radio Equipment is granted any concession, license or special arrangement with respect to the Radio Equipment. Except for the Lease-Purchase Agreement, the City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Radio Equipment or security for the payment of amounts due under the Lease-Purchase Agreement that might cause the Lease-Purchase Agreement or any payments thereunder to be made in connection therewith to be considered an “arbitrage bond” or “private loan bond” within the meaning of Sections 148 and 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

3.03. Arbitrage Certification. The Mayor, the Fiscal Services Director and the City Clerk, being the officers of the City charged with the responsibility for executing the Lease-Purchase Agreement, are authorized and directed to execute and deliver to the Lessor a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of execution and delivery of the Lease-Purchase Agreement, it is reasonably expected that the proceeds of the Lease-Purchase Agreement will be used in a manner that would not cause the Lease-Purchase Agreement, respectively, to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

3.04. Arbitrage Rebate. The City acknowledges that the Lease-Purchase Agreement is subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Regulations to preserve the exclusion of interest on the Lease-Purchase Agreement from gross income for federal income tax purposes, unless the Lease-Purchase Agreement qualifies for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Lease-Purchase Agreement arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Mayor, the Fiscal Services Director and the City Clerk are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by bond counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

3.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than May 15, 2020, a statement concerning the Lease-Purchase Agreement Schedule containing the information required by Section 149(e) of the Code.

Section 4. Transcript Certification. The officers of the City are directed to furnish to the Lessor certified copies of all proceedings and information in their official records relevant to the authorization of the Lease-Purchase Agreement and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and enforceability of the Lease-Purchase Agreement and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

Section 5. Effective Date. This Resolution shall become effective upon passage and all provisions of ordinances, resolutions and other actions and proceedings of the City which are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

Passed and adopted by the City Commission of the City of Great Falls, Montana, on this 17th day of March, 2020.

Bob Kelly, Mayor

Attest:

Lisa Kunz, City Clerk

APPROVED FOR LEGAL CONTENT:

Sara R. Sexe, City Attorney

EXHIBIT A
EQUIPMENT LEASE-PURCHASE AGREEMENT