

RESOLUTIONS OF THE CITY OF HELENA, MONTANA

RESOLUTION NO. 19998

A RESOLUTION AUTHORIZING PARTICIPATING IN THE STATE OF MONTANA 457(b) DEFERRED COMPENSATION PLAN ADMINISTERED BY THE MONTANA PUBLIC EMPLOYEE RETIREMENT ADMINISTRATION

WHEREAS, the City of Helena desires to enter into a Deferred Compensation Plan with the Public Employees' Retirement Board that will be available to employees of the City upon terms and conditions set forth in the attached Adoption Agreement; and

WHEREAS, it appears to be in the best interests of the City's employees that the City enter into an agreement with the Public Employees' Retirement Board for the voluntary participation by any of the City's eligible employees in the State of Montana Deferred Compensation (457(b)) Plan.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA:

Section 1. The City is now a contracting employer for the purposes of § 19-50-201, MCA, and will participate in the State of Montana Deferred Compensation (457(b)) Plan ("Montana Deferred Compensation Plan") administered by the Montana Public Employees' Retirement Board ("Board"). The City shall abide by the terms of the Montana Deferred Compensation Plan and all applicable provisions of the Montana Code Annotated. Any eligible employee of

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the City may voluntarily choose to participate in the Deferred Compensation Plan.

Section 2. The Montana Deferred Compensation Plan is subject to amendment as permitted by the Plan Document, Title 19, Chapter 50, MCA, and is eligible under section 457 of the Internal Revenue Code of 1954 (26 U.S.C. 457), as amended or superseded, and complies with regulations of the U.S. Department of the Treasury.

Section 3. A participating employee may defer receipt of a part of the employee's compensation and the deferred amount shall be invested in one or more of the investment options provided for in § 19-50-102, MCA. The total amount of compensation deferred may not exceed the amount permitted by the Internal Revenue Code. Compensation deferred pursuant to this resolution is included as compensation for the purpose of computing retirement or pension benefits, but is not subject to state and federal income tax until properly distributed.

Section 4. The City's employees may make contributions to this Deferred Compensation Plan only, not to other 457 plans previously sponsored by the City. The City understands that it must choose one of the following with respect to any other 457 plans sponsored by the City:

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- a. leave existing account balances in the prior 457 plan with all new contributions being made to this Plan;
- b. do a direct transfer of all funds from the prior plan to this Plan; or
- c. allow employees to elect to retain existing account balances in the prior 457 plan or to do direct transfers to this Plan. All new contributions will be made to this Plan, regardless of whether employees chose to maintain prior account balances in the prior 457 plan or transfer such balances to this Plan.

Section 5. The Board will hold the deferred compensation funds invested pursuant to this resolution in trust for the exclusive benefit of the Montana Deferred Compensation Plan participants and their beneficiaries. The Montana Deferred Compensation Plan's administrator may allocate any necessary costs against the assets and interest earnings of each participant.

Section 6. Neither the Board nor the City shall be financially liable for any investment losses incurred.

Section 7. The Helena City Commission hereby authorizes and directs the City Manager to enter into an Adoption Agreement with the Board that carries out the intent of this Resolution.

Section 8. In the event subsequent legislative assemblies of the State of Montana amend Title 19, Chapter 50, MCA, as to benefits, rights, or deferrals, or the Board amends the Montana

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Deferred Compensation Plan Document, the contract established pursuant to this resolution shall be deemed amended to correspond thereto, and the legislative amendments and Plan Document amendments will be made a part of this resolution and the ensuing contract.

**PASSED AND EFFECTIVE BY THE COMMISSION OF THE CITY OF HELENA,
MONTANA, THIS 20th DAY OF MAY, 2013.**

/S/ James E. Smith

MAYOR

ATTEST:

/S/ Debbie Havens

CLERK OF THE COMMISSION