RESOLUTION NO. 490

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, MONTANA, AUTHORIZING THE TOWN TO PARTICIPATE IN THE STATE OF MONTANA (457(b)) DEFERRED COMPENSATION PLAN ADMINISTERED BY THE MONTANA PUBLIC EMPLOYEES' RETIREMENT ADMINISTRATION (MPERA).

WHEREAS, the Town Council of the Town of Fairview, Montana, deems it in the best interests of said Town to become a contracting employer for the purposes of Section 19-50-201, M.C.A., and that the Town participate in the State of Montana Deferred Compensation (457(b)) plan ("Montana Deferred Compensation Plan") administered by the Montana Public Employees' Retirement Board ("Board").

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF FAIRVIEW, MONTANA, AS FOLLOWS:

Section 1. The Town of Fairview become a contracting employer for the purposes of Section 19-50-201, M.C.A., and that the Town participate in the Montana Deferred Compensation Plan administered by the Montana Public Employees' Board. The Town shall abide by the terms of the Montana Deferred Compensation Plan, and all applicable provisions of the Montana Code Annotated. Any eligible employee of the Town may voluntarily choose to participate in the Montana Deferred Compensation Plan.

Section 2. The Montana Deferred Compensation Plan is subject to amendment as permitted by the Plan Document, Title 19, Chapter 50 of the Montana Code Annotated, and is eligible under Section 457 of the Internal Revenue Code of 1954 (26 U.S.C. 457), as amended or superseded; and complies with regulations of the U.S. Department of the Treasury.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 their compensation and the deferred amount shall be invested in one or more of the investment options provided for in Section 19-50-102, M.C.A. 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 Town's employees may make contributions to only this Deferred Compensation Plan, not to additional 457 plans sponsored by the Town. The Town understands that it must

choose one of the following with respect to any additional 457 plans sponsored by the Town:

(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 their 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 and contract 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 Town shall be financially liable for any investment losses incurred.

Section 7. The legislative body of the Town is authorized and directed to enter into an Adoption Agreement with the Board that carries out the intent of this Resolution. The contract shall be effective on the 6th day of October, 2016.

Section 8. In the event subsequent legislative assemblies of the State of Montana amend Title 19, Chapter 50 as to benefits, rights, or deferrals, or the Board amends the Montana Deferred Compensation Plan Document, the contract established pursuant to the Resolution shall be deemed amended to correspond thereto and the legislative amendments and Plan Document amendments shall be made a part of this Resolution and the ensuing contract.

PASSED, APPROVED, and ADOPTED this 8th day of August, 2016.

[redacted]

BRYAN CUMMINS
FAIRVIEW TOWN MAYOR
FAIRVIEW, MONTANA

AYES: 4
NOES: 0
ABSTAINING: 0
ABSENT: 2

ATTEST:

[redacted]

NORMA F. CALSON
FAIRVIEW TOWN CLERK

Town of Fairview Deferred Compensation
ADOPTION AGREEMENT

THIS AGREEMENT made and entered into this 6th day of October, 2016, by and between the Town of Fairview ("Town"), and the Public Employees' Retirement Board ("Board"), establishes that the parties mutually covenant and agree that:

1. Effective the later of the first regular employer pay period beginning one month after Board approval, or the 1st day of November, 2016, the rights, benefits, payments, duties, and obligations with respect to membership and participation in the state of Montana's deferred compensation program (Title 19, chapter 50, MCA), shall be available to the employees of the Town upon the terms and conditions set forth in the applicable statutes, regulations, and plan document.

2. The Town agrees that the Board is the administrator of the deferred compensation program and agrees to the rules and conditions established by the Board for the proper administration of the plan. Account balances in the Town's previous 457 plan, if any, may be directly transferred from that plan to the state's program.

3. The Town's payroll officer shall withhold from the compensation of a participating employee ("participant") the deferral amount specified in that employee's salary deferral agreement, provided that the employee has signed a participant enrollment form indicating their desire to participate in the deferred compensation program and a salary deferral agreement.

4. The Town agrees, within a reasonable time but no later than 5 business days after each pay day, to submit to the Board required participant data and funds for the participant deferrals indicated on each participant's salary deferral agreement.

5. The Town further agrees, at the same time the participant data and funds referenced in section 3 above are submitted, to submit to the Board as additional deferral amounts the appropriate employer's contribution, if any, in the amount of $0.

6. The total amount of compensation deferred in a calendar year, including participant's deferral and employer's contribution, may not exceed the lesser of the amount permitted by the Internal Revenue Code ($18,000 as of January 1, 2016), or 100% of the participant's includible compensation.

7. The Town further agrees that its employees will not be permitted to make contributions to any other 457 plan sponsored by the Town. However, this provision does not preclude the Town's employees from having existing account balances retained in prior 457 plans.

8. All plan assets, including participant deferrals, employer contributions, and all income attributable to those assets, are held in trust by the Board for the exclusive benefit of the participants and their beneficiaries.

9. The Board agrees to maintain, or have maintained by a service manager, an account for each participant. Each participant's account will be credited with the participant's deferral amount, and any employer contribution, for each pay period upon receipt of the deferral amount from the Town.

10. The Board further agrees to invest, or have invested by a third party, a participant's deferral amounts pursuant to instructions on the participant's enrollment form and Title 19,

Chapter 50, MCA. The participant's account will be adjusted daily to reflect any distribution to the participant and all interest, dividends, account charges, and changes in market value resulting from the investment of the participant's deferred amounts. Pursuant to 19-50-204, MCA, neither the Board nor the Town are financially liable for any investment losses incurred.

11. The Board further agrees that a written statement of account shall be provided to each participant within thirty (30) days after the end of each quarter of the calendar year. The statement shall show participant deferrals and employer contributions for each payroll period.

12. Benefits will be payable to each participant pursuant to the appropriate plan document. Benefits are normally available following a participant's separation of service, death, or disability, or the occurrence of an unforeseeable emergency. Voluntary in-service distributions are available to participants whose account does not exceed $5,000 on the date of distribution; who have not previously received an in-service distribution; and who have had no amount deferred under the Plan during the two-year period ending on the date of the in-service distribution. Participants' accounts may also be subject to partial or full distribution, before or following separation from service, pursuant to a Qualified Domestic Relations Order.

13. Any amendments made by the Montana Legislature to the Deferred Compensation Program, Title 19, Chapter 50, MCA, shall apply to and become a part of this Adoption Agreement on the effective date of the amendments, and the Adoption Agreement shall be deemed amended accordingly.

14. Any amendments made to the State of Montana Public Employee Deferred Compensation Plan Document shall apply to and become a part of this Adoption Agreement on the effective date of the amended plan document, and the Adoption Agreement shall be deemed amended accordingly.

15. This Adoption Agreement shall not be cancelled, amended, or abrogated by any act of the parties except as provided for in the Title 19, Chapter 50, MCA, specifically 19-50-201, MCA.

TOWN OF FAIRVIEW	**PUBLIC EMPLOYEES' RETIREMENT BOARD**
By: [redacted] Bryan Cummins, Mayor	By: _____ Sheena Wilson, President
Attest: [redacted] Norma Faye Carlson, Clerk/Treasurer	Attest: _____ Dore Schwinden, Executive Director
Date: 8-10-16	Date: _____