

A RESOLUTION RELATING TO **W.O. 05-02, MISCELLANEOUS /DEVELOPER-RELATED IMPROVEMENTS**; ORDERING THE PROGRAM FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SIDEWALK, CURB AND GUTTER IMPROVEMENT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Passage of Resolution of Intention. This Council, on **February 26, 2007**, adopted Resolution No. **07-18529** (the "Resolution of Intention"), pursuant to which this Council declared its intention to order in certain sidewalks, curb, gutter and street improvements, designated as **W.O. 05-02** (the "Project") of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the "Bonds"), the creation and administration of the Project, and the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on **April 9, 2007**, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

Section 3. Order. It is hereby ordered that the following improvements shall be constructed, reconstructed, repaired, or replaced:

See Exhibit "A" attached hereto.

Section 4. Affected Properties. All properties which will be required to pay any portion of the costs of the improvements identified herein are identified in Exhibit "B" attached hereto.

Section 5. Reimbursement Expenditures.

5.01. **Regulations.** The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

5.02. **Prior Expenditures.** Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provisions contained in Section 1.150-2(j) (2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de minimis" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the City before the date 60 days before the date of adoption of this resolution.

5.03. **Declaration of Intent.** The City reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of **\$343,000** after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

5.04. **Budgetary Matters.** As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the city's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. **Reimbursement Allocations.** The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 6. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners and said owners shall have thirty (30) days from the date of said Notice in which to install the ordered improvements at their cost and expense. In the event the owners do not take

said action within the said thirty (30) day period, the City will install the improvements and will assess the costs thereof, all costs of administration and engineering and all bond issuance costs against the real property.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 9th day of April 2007.



THE CITY OF BILLINGS:

BY 
Ron Tussing

MAYOR

ATTEST:

BY Cari Martin
CITY CLERK

Location of Work
Work Order 05-02
Miscellaneous and Developer Related
Exhibit "A"

- A) Sidewalk: 2308 thru 2328 Pine Street * North side of City Hall Hand-I-cap parking space * 543 Lewis Avenue * 503 Avenue F * 44 Nimitz Drive * 2528 Poly Drive * 623 Park Lane * 2322 Wyoming Avenue * 2413 Montana Avenue * 1745 Deep Powder Drive * East side of Veterans Park (parks dept.) * Muirwood Drive (Parkland West sub R-O-W) * 2532 Broadwater Avenue * 721 to 733 Avenue F * 730 to 746 Avenue F * 501 Avenue C * 2235 Fox Drive * 1624 Avenue D * 175 North 27th Street (wells fargo bldg) * 741 Avenue C ***
- B) Sidewalk, Curb and Gutter: South side of Avenue F between 6th Street West and 7th Street West * 4229 Clevenger Avenue * 1432 Crawford Drive * 1229 to 1243 Poly Drive * 1227 Avenue D * 140 Wyoming Avenue * 1621 6th Street West * 2326 Hewitt Drive * 2104 Hewitt Drive * Both sides of 19th Street West from Colton Drive to the BBWA canal * 1748 4th Avenue North * 114 Adams Street * 108 Adams Street * 1706 St. Andrews Drive ***
- C) Sidewalk, Drive Aprons: 1400 Kootenai Avenue * 1870 High Sierra Boulevard * 452 Katherine Ann Boulevard * 2790 Gabel Road * 1911 King Avenue West ***
- D) Sidewalk, curb & Gutter, Drive Aprons: 2270 George Street * 4603 to 4615 Phillip Street * Intersection of Lexington Drive & Santa Fe Drive all directions 150' +/- * 1911 & 1915 Belvedere Drive * #1 South Broadway * 829 to 845 Yellowstone Avenue * 1510 & 1520 Virginia Lane * South side of Avenue D between Virginia Lane and 6th Street West * 2116 Fox Drive * 426 Nelson Drive * 2714 & 2718 Hoover Drive * 3695 Rimrock Road (Lot 16 Blk 2 Reimers Park sub) * West side of South 31st Street between 3rd**

Avenue South and 4th Avenue South (blk #197) * East side of South 32nd Street between 3rd Avenue South and 4th Avenue South (blk #197) *

E) Sidewalk, curb & gutter Drive Aprons & Alley Aprons: Both side of 2nd Avenue South between South 36th Street and South 37th Street * South side of 5th Avenue South between South 37th Street and State Avenue (R/R R-O-W) * South side of 3rd Avenue South between S 31st Street and S 32nd Street * North side of 4th Avenue South between South 31st Street and South 42nd Street *

F) Curb & Gutter: 2115 11th Street West * 524 Clark Avenue * 331 Burlington Avenue * Intersection of Greenbriar Road and Lake Heights Drive * 1306 Avenue F *

G) Curb, Gutter, Drive Aprons: 631 Custer Avenue *

H) Drive Aprons: 2033 Main Street * 4310 North Carlton Avenue * 4207 North Carlton Avenue * 3195 Mac Masters Road *

I) Alley Aprons: East side of Lexington Drive between Dallas Drive and Beloit Drive * North side of Beloit Drive between Lexington Drive and South Santa Fe Drive * West side of 7th Street West (400 block) * East side of 6th Street West between Avenue C and Avenue D * South side of Avenue D between Virginia Lane and 6th Street West. * North side of Avenue C between Virginia Lane and 6th Street West. * West side of Woody Drive between Cohagen Drive and Solomon Drive * East side of 24th Street West between Cohagen Drive and Solomon Drive *

J) ADA Ramps only : S/W corner of South 26th Street & 3rd Avenue North * 3145 Avenue F * 1902 32nd Street West *

K) Asphalt Restoration: 400 & 402 Sharon Lane * 401 & 403 Sharon Lane *