

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 97-17223, entitled: "RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1335; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a meeting on April 28, 1997, and that the meeting was duly held by the City Council 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Councilmembers voted in favor thereof:

UNANIMOUS _____; voted against the same: none
_____; abstained from voting thereon: none

_____; or were absent: none

_____.

WITNESS my hand officially this 28 day of April, 1997.

Marita Herold
Marita Herold, City Clerk

RESOLUTION NO. 97- 17a23

A RESOLUTION RELATING TO SPECIAL IMPROVEMENT DISTRICT NO. 1335; DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO CREATE THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE CITY'S SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

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

Section 1. Proposed Improvements; Intention To Create District. The City proposes to undertake certain local improvements (the "Improvements") to benefit certain property located in the City. The Improvements consist of providing curb and gutter, sidewalk, storm drainage, paving, and water and sanitary sewer service improvements in South 38th Street West for property located in Lots 17 through 23, Block 19, and Lot 1, Block 20, Parkland West Subdivision, Second Filing; Shiloh Village Subdivision, Second and Third Filings; Tracts 1-B-1A and 1-B-1B, Certificate of Survey 1492 Amended; and, Tract 1, Certificate of Survey 2481, Yellowstone County, Montana, as more particularly described in Section 5. The total estimated costs of the Improvements are \$380,000.00. The costs of the Improvements are to be paid from the Special Improvement District Bonds hereinafter described. It is the intention of this Council to create and establish in the City under Montana Code Annotated, Title 7, Chapter 12, Parts 41 and 42, as amended, a special improvement district (the "District") for the purpose of financing costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"). The total estimated costs of the Improvements, including such incidental costs, to be financed by the Bonds are \$380,000.00. The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefitted by the Improvements in an amount not less than \$380,000.00.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as Special Improvement District No. 1335 of the City of Billings, Montana.

Section 3. Boundaries of District. The limits and boundaries of the District are depicted on a map attached as "Exhibit A" hereto (which is hereby incorporated herein and made a part hereof) and more particularly described on "Exhibit B" hereto (which is hereby incorporated herein and made a part hereof), which boundaries are designated and confirmed as the boundaries of the District. A listing of each of the properties in the District is shown on "Exhibit A" hereto.

Section 4. Benefitted Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits "A" and "B" are hereby declared to be the special improvement district and the territory which will benefit and be benefitted by the Improvements and will be assessed for all of the costs of the Improvements as described in Section 7. The improvements, in the opinion of this Council, are of more than local and ordinary benefit. The property included within said limits and boundaries is hereby declared to be the property benefitted by the Improvements.

Section 5. General Character of the Improvements. The general character of the Improvements is to provide the following improvements:

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CONCRETE CURB AND GUTTER, ASPHALT SURFACING AND BASE COURSE GRAVEL, SIDEWALKS, STORM DRAIN MAINS AND APPURTENANT DEVICES, AND WATER AND SANITARY SEWER SERVICES WILL BE INSTALLED in South 38th Street West from Central Avenue for approximately 1600' south.

Section 6. Engineer and Estimated Cost. **Engineering, Inc., P.O. Box 81345, Billings, Montana 59108** shall be the engineer for the District. The Engineer has estimated that the costs of the Improvements, including all incidental costs, is **\$380,000.00**.

Section 7. Assessment Methods.

7.1. Combination of Methods; Property to be Assessed. All properties within the District are to be assessed for a portion of the costs of the Improvements, as specified herein. The costs of the Improvements shall be assessed against the property in the District benefitting from the Improvements, based on the frontage and lump sum methods of assessment described in Sections 7-12-4163 and 7-12-4164, M.C.A., as particularly applied as set forth in this Section 7.

7.2.1. Frontage. All properties in the District bordering or abutting South 38th Street West upon which the curb, gutter, paving, and storm drain main improvements will be made, will be assessed for their proportionate share of the costs of the curb, gutter, paving, and storm drain main improvements. The total estimated cost of the curb, gutter, paving, and storm drain main improvements is \$298,502.02 and shall be assessed against each lot, tract, or parcel of land in the District bordering or abutting said South 38th Street West for that part of the costs of the curb, gutter, paving and some storm drain main improvements that the lineal footage of such lot, tract, or parcel bears to the total lineal footage of all lots, tracts, or parcels of land in the District bordering or abutting South 38th Street West. The total lineal footage to be assessed is 2,931.32 feet. The costs per lineal foot shall not exceed \$101.83194602. The assessment for each lot, tract, or parcel of land is shown on Exhibit C hereto.

7.2.2. Frontage. All properties in the District bordering or abutting South 38th Street West upon which sidewalk improvements will be made, will be assessed for their proportionate share of the costs of sidewalk improvements. The total estimated cost of sidewalk improvements is \$13,174.38 and shall be assessed against each lot, tract, or parcel of land in the District bordering or abutting said South 38th Street West for that part of the costs of sidewalk improvements that the lineal footage of such lot, tract, or parcel bears to the total lineal footage of all lots, tracts, or parcels of land in the District bordering or abutting South 38th Street West. The total lineal footage to be assessed is 570.45 feet. The costs per lineal foot shall not exceed \$23.09471785. The assessment for each lot, tract, or parcel of land is shown on Exhibit C hereto.

7.3. Lump Sum-Utility Service Connections. Each lot, tract, or parcel of land in the District receiving a one-inch (1") water, six-inch (6") water, sanitary sewer, or storm drain service connection and so designated on Exhibit C hereto shall be assessed for the costs of the connection on a lump sum basis based on the bid price to be received. The lump sum assessment will not exceed \$1,263.43, \$4,256.87, \$1,675.83, and \$1,636.24, respectively, per connection.

7.04. Assessment Methodologies Equitable and Consistent with Benefit. This Council hereby determines that the methods of assessment and the assessment of costs of the specific Improvements against the

properties benefitted thereby as prescribed in this Section 7 are equitable and in proportion to and not exceeding the special benefits derived from the respective Improvements by the lots, tracts and parcels to be assessed therefor within the District.

Section 8. Payment of Assessments. The special assessments for the costs of the Improvements shall be payable over a term not exceeding fifteen (15) years, each in equal semiannual installments of principal, plus interest, or equal semiannual payments of principal and interest, as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Property owners have the right to prepay assessments as provided by law.

Section 9. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The City will issue the Bonds in an aggregate principal amount not to exceed **\$380,000.00** in order to finance the costs of the Improvements. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the District. This Council further finds it is in the public interest, and in the best interest of the City and the District, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize such undertakings and agreements, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated market value of the lots, parcels or tracts in the District as of the date of adoption of this resolution, as estimated by Yellowstone County, is as shown on Exhibits D and E. The differences in the market values reflect whether or not the property is vacant. The estimated market value of the lots after the Improvements have been completed, as estimated by the Engineer based on the current market values of the properties for property tax purposes, will increase as a result of the Improvements in an amount not less than the amount of proposed assessment for each lot. The special assessments to be levied under Section 7 against each lot is less than the increase in estimated market value of the lot as a result of the construction of the improvements.

All of the lots within the District are located within Planned Unit Developments. The underlying zoning for all of the properties along the east side of South 38th Street West (i.e. Parkland West Subdivision, Second Filing, and Tract 1 of Certificate of Survey 2481, is detached single-family residences or duplex single-family residences. The underlying zoning of Shiloh Village Subdivision, Second and Third Filings, Tract 1-B-1B of Certificate of Survey 1492 Amended, and the south half of Tract 1-B-1A of Certificate of Survey 1492 Amended is Residential Mobile Home. The underlying zoning of the north half of Tract 1-B-1A of Certificate of Survey 1492 Amended is Community Commercial. It is anticipated that once the improvements are completed, the unimproved, single-family detached and duplex lots will be sold for development or developed by the current owners which improvements will further increase the market value.

(b) Diversity of Property Ownership. Currently, all of the properties along the east side of South 38th Street West in Parkland West Subdivision, Second Filing, and in Certificate of Survey 2481 are undeveloped. Additionally, Tract 1-B-1A of Certificate of Survey 1492 Amended, on the west side of South 38th Street West, is undeveloped.

However, Shiloh Village Subdivision, Second and Third Filings, together with Tract 1-B-1B of Certificate of Survey 1492 Amended are currently fully developed with residential mobile homes.

There are eight separate owners of the 13 lots, tracts, or parcels included within the District. As noted above, there currently are three developed parcels (i.e. Tract 1-B-1B of Certificate of Survey 1492 Amended, Shiloh Village Subdivision, Second Filing, and Shiloh Village Subdivision, Third Filing), and all three of these parcels are owned by the same entity, that being Shiloh Village Limited Liability Company.

Of the 10 remaining, undeveloped parcels, three are owned by Parkland West Development Company, Inc., two are owned by Danny G. and Paula R. Binstock, and the remaining five are held by five, separate, individual owners.

(c) Comparison of Special Assessments and Property Taxes and Market Value. Based on an analysis of the aggregate amount of the proposed and any outstanding special assessments (whether or not delinquent) and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a parcel in the District) against each lot, parcel or tract in the District in comparison to the estimated market value of such lot, parcel, or tract after the Improvements, the City concludes that the estimated market value of the lots, tracts or parcels of land in the District exceeds the sum of special assessments, delinquent property taxes, current property taxes.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding special assessments and property taxes levied against the properties in the District is as shown on Exhibit F.

Currently, there are three separate SID's being levied against properties within the District, those being SID's 1139, 1153 and 1158.

SID 1139 is being assessed against Tract 1, Certificate of Survey 2481 with the remaining principle of \$1,874.32; Lot 23, Block 19, Parkland West Subdivision, Second Filing, with the remaining principle payment of \$2,048.07; and, Tract 1-B-1A of Certificate of Survey 1492 Amended with the remaining principle payment of \$18,933.08. The final payment due under this SID is scheduled for November of 1997.

SID 1153 is currently being assessed against all properties within the District. The total principle payment against all of these properties is \$83,159.52 with a low of \$129.60, a high of \$29,638.77, an average of \$6,396.89, and a median of \$274.66. The final payment due on this SID is scheduled for November of 1997.

SID 1158 is currently being assessed against Shiloh Village Subdivision, Second Filing, with the remaining principle payment of \$33,524.37, and Shiloh Village Subdivision, Third Filing, with the remaining principle payment of \$37,116.92. The final payment under this SID is scheduled for May of 1999.

Given the low delinquency rate over the last five years (i.e. 1992-1996), together with the fact that two of the current SID's levied against the property will be paid out prior to this SID being assessed

against the properties, it is unlikely that a financial difficulty will arise making it unlikely that a revolving loan will be required.

(e) The Public Benefit of the Improvements. The District will provide necessary street, curb and gutter, storm drain, and water and sanitary sewer service improvements in order to open up the lots on the East side of South 38th Street West for residential development. The lots in the District on the West side of South 38th Street West will be upgraded to meet minimum City development standards. Aside from satisfying City development standards, participation by lots on the West side of South 38th Street West will allow equitable distribution of improvement costs to all benefitting properties. The increase in site development will, thereby, increase the taxable assessment for those individual properties.

(f) Other Factors. As shown on Exhibit A, Certificate of Survey 2481 is currently processing a subdivision plat to create Parkland West Subdivision, Fifth Filing. The first phase of development of this subdivision includes 31 single-family detached or single-family duplex lots. The developer will be installing approximately \$270,000.00 of improvements to serve these 31 lots through private financing resources. Upon completion of these privately financed improvements, together with the SID improvements, it would be expected that the single-family detached and single-family duplex residential units along the east side of 38th Street West would begin to develop.

This area is currently one of the most active in the City of Billings for single-family construction. Currently, with the exception of the properties fronting 38th Street West, virtually all of the lots within Parkland West Subdivision, Second Filing, are developed. Further, in the last four years, 163 single-family detached and single-family duplex lots were created in Parkland West Subdivision, Third and Fourth Filings. At this time, approximately 90% of those lots have been developed.

The limiting factor to date for the development of lots along the east side of South 38th Street West in Parkland West Subdivision, Second Filing, has been the existing requirement of the Subdivision Improvements Agreement that the full width of the street must be improved at the time of development of any lot within this subdivision which fronts South 38th Street West. Given the lack of a single owner, it has not been economically feasible for one or two lots to carry these improvement costs. Therefore, with the creation of this SID, this will allow the costs to be spread over all benefitting properties and will now allow these properties to be developed by their current owners or sold to developers for improvement.

Further, there is no reason to expect that the development of the residential lots within this District would not follow suit with the remainder of this area and see quick development of these parcels.

Finally, the installation of these improvements will satisfy subdivision and site development requirements for the installation of the improvements along the South 38th Street West frontage of Shiloh Village Subdivision, Second Filing; Shiloh Village Subdivision, Third Filing; and Tract 1-B-1B of Certificate of Survey 1492 Amended.

Section 10. Public Hearing; Protests. At any time within fifteen (15) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of

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real property within the District subject to assessment and taxation for the cost and expense of making the Improvements may make and file with the City Clerk until 5:00 p.m., M.T., on the expiration date of said 15-day period (**May 23, 1997**), written protest against the proposed Improvements, or against the extension or creation of the District or both, and this Council will at its next regular meetings after the expiration of the fifteen (15) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed; which said regular meeting will be held on **Tuesday, May 27, 1997**, at 7:30 o'clock p.m., in the Council Chambers, located on the Second Floor of the Police Facility at 220 North 27th Street, in Billings, Montana.

Section 11. Notice of Passage of Resolution of Intention. The City Clerk is hereby authorized and directed to publish or cause to be published a copy of a Notice of the passage of this Resolution in the **Billings Times**, a newspaper of general circulation in the county on **May 8** and **May 15, 1997** in the form and manner prescribed by law, and to mail or cause to be mailed a copy of said Notice to every person, firm, corporation, or the agent of such person, firm, or corporation having real property within the District listed in his or her name upon the last completed assessment roll for state, county, and school district taxes, at his last-known address, on or before the same day such notice is first published.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this **28th** day of **April, 1997**.



THE CITY OF BILLINGS:

BY: Charles F. Tooley
Charles F. Tooley MAYOR

ATTEST:

BY: Marita Herold
Marita Herold, CMC, CITY CLERK

Consulting Engineers and Land Surveyors

DESCRIPTION OF IMPROVEMENTS

[illegible]

DISTRICT BOUNDARY DESCRIPTION

Beginning at a point which is the northeast corner of Lot 23, Block 19, Parkland West Subdivision, Second Filing; thence, from said point of beginning; S00°07'18"E, a distance of 732.53 feet; thence, S00°48'10"E, a distance of 71.01 feet; thence, S00°07'18"E, a distance of 100.00 feet; thence, along a curve to the right with a radius of 859.96 feet, a chord bearing S80°34'28"W, chord length = 18.27); thence, S00°07'18"E, a distance of 18.27 feet (chord bearing S80°34'28"W, chord length = 18.27); thence, along a curve to the right with a radius of 859.96 feet, a distance of 326.67 feet; thence, S08°51'42"E, a distance of 10.23 feet (chord bearing S80°42'50"W, chord length = 10.23); thence, S06°52'06"E, a distance of 105.00 feet; thence, S17°42'58"W, a distance of 66.51 feet; radius of 993.67 feet, a distance of 101.70 feet; thence, along a curve to the right with a radius of 993.67 feet, a distance of 97.59 feet (chord bearing S87°02'15"W, chord length = 1555.22 feet); thence, S89°59'48"W, a distance of 170.00 feet.

SID 1335

Sorted by Market Value

LOT	BLOCK	TAX I.D. NUMBER	MARKET VALUE	TAXABLE VALUE	SID 1335 ASSESSMENT
18	19	A27291	\$ 3,400.00	\$ 131.00	\$ 13,659.11
19	19	A27292	\$ 3,400.00	\$ 131.00	\$ 13,659.11
20	19	A27293	\$ 3,400.00	\$ 131.00	\$ 13,659.11
21	19	A27294	\$ 3,400.00	\$ 131.00	\$ 13,659.11
22	19	A27295	\$ 3,400.00	\$ 131.00	\$ 13,659.11
23	19	A27296	\$ 3,400.00	\$ 131.00	\$ 13,651.98
17	19	A27290	\$ 3,464.00	\$ 134.00	\$ 14,372.95
TRACT 1-B-1A			\$ 13,668.00	\$ 528.00	\$ 84,093.41
1	20	A27297	\$ 18,692.00	\$ 722.00	\$ 16,052.55
C/S 2481, TRACT 1			\$ 22,283.00	\$ 860.00	\$ 83,548.87
SV, 2ND		C08661A	\$ 372,938.00	\$ 14,395.00	\$ 6,440.87
TRACT 1-B-1B			\$ 509,681.00	\$ 19,673.00	\$ 72,900.65
SV, 3RD		C08661B	\$ 569,397.00	\$ 21,979.00	\$ 20,643.17
TOTAL:			\$ 1,530,523.00	\$ 59,077.00	\$ 380,000.00

LOWEST VALUE = \$ 3,400.00 \$ 131.00 \$ 6,440.87
 HIGHEST VALUE = \$ 569,397.00 \$ 21,979.00 \$ 84,093.41
 AVERAGE VALUE = \$ 117,732.54 \$ 4,544.38 \$ 29,230.77
 MEDIAN VALUE = \$ 3,464.00 \$ 134.00 \$ 13,659.11

EXHIBIT E

SID 1335
Sorted by Assessment Value

LOT	BLOCK	TAX I.D. NUMBER	MARKET VALUE	TAXABLE VALUE	SID 1335 ASSESSMENT
SV, 2ND		C08661A	\$ 372,938.00	\$ 14,395.00	\$ 6,440.87
23	19	A27296	\$ 3,400.00	\$ 131.00	\$ 13,651.98
18	19	A27291	\$ 3,400.00	\$ 131.00	\$ 13,659.11
19	19	A27292	\$ 3,400.00	\$ 131.00	\$ 13,659.11
20	19	A27293	\$ 3,400.00	\$ 131.00	\$ 13,659.11
21	19	A27294	\$ 3,400.00	\$ 131.00	\$ 13,659.11
22	19	A27295	\$ 3,400.00	\$ 131.00	\$ 13,659.11
17	19	A27290	\$ 3,464.00	\$ 134.00	\$ 14,372.95
1	20	A27297	\$ 18,692.00	\$ 722.00	\$ 16,052.55
SV, 3RD		C08661B	\$ 569,397.00	\$ 21,979.00	\$ 20,643.17
TRACT 1-B-1B		D00517A	\$ 509,681.00	\$ 19,673.00	\$ 72,900.65
C/S 2481, TRACT 1		D11511	\$ 22,283.00	\$ 860.00	\$ 83,548.87
TRACT 1-B-1A		D00517	\$ 13,668.00	\$ 528.00	\$ 84,093.41
TOTAL:			\$ 1,530,523.00	\$ 59,077.00	\$ 380,000.00

LOWEST VALUE = \$ 3,400.00 \$ 131.00 \$ 6,440.87
 HIGHEST VALUE = \$ 569,397.00 \$ 21,979.00 \$ 84,093.41
 AVERAGE VALUE = \$ 117,732.54 \$ 4,544.38 \$ 29,230.77
 AVERAGE VALUE = \$ 3,464.00 \$ 134.00 \$ 13,659.11

TAX DELINQUENCY DATA FOR SID 1335
Sorted by Tax Code

LOT	BLOCK	TAX I.D. NUMBER	Delinquent ? (If yes, amount given), Year					Total Years Delinquent	
			1991	1992	1993	1994	1995		1996
17	19	A27290	NO	NO	NO	NO	NO	NO	0
18	19	A27291	\$ 101.57	NO	NO	NO	NO	NO	1
19	19	A27292	\$ 101.57	NO	NO	NO	NO	NO	1
20	19	A27293	\$ 101.57	NO	NO	NO	NO	NO	1
21	19	A27294	\$ 103.07	NO	NO	NO	NO	NO	1
23	19	A27296	NO	NO	NO	NO	NO	NO	0
1	20	A27297	NO	NO	NO	NO	NO	NO	0
22	19	A27S95	\$ 101.57	NO	NO	NO	NO	NO	1
SV, 2ND		C08661A	NO	NO	NO	NO	NO	NO	0
SV, 3RD		C08661B	NO	NO	NO	NO	NO	NO	0
TRACT 1-B-1A		D00517	NO	NO	NO	NO	NO	NO	0
TRACT 1-B-1B		D00517A	NO	NO	NO	NO	NO	NO	0
C/S 2481, TRACT 1		D11511	\$ 10,932.80	\$ 10,290.84	NO	NO	NO	NO	2