

RESOLUTION NO. 09-18792

A RESOLUTION RELATING TO **W.O. 08-02, 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 **January 12, 2009**, adopted Resolution No. **09-18782** (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. 08-02** (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 **February 9, 2009**, 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 minimus" 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 **\$326,000** 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 February 2009.



THE CITY OF BILLINGS:

BY


Ron Tussing, Mayor

ATTEST:

BY

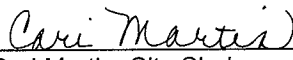

Cari Martin, City Clerk

Exhibit "A"

Location of Work

WO 08-02 Miscellaneous and Developer Related

- A) **Sidewalk:** 1410 Yellowstone Avenue * 2617 7TH Avenue North * 10 Yellowstone Avenue * 544 Crawford Drive * 928 to 936 Alderson Avenue * 929 Alderson Avenue * 1214 9th Street West * 1216 8th Street West * 44 30th Street West * 318 Berthoud Drive * 1612 thru 1624 Broadwater Avenue * 3633 Rimrock Road (Dev-Rel) * (Dev-Rel) * 3220 1ST Avenue North * 708 Parkhill Drive * 943 Poly Drive * 1841 Miles Avenue * 625 S 38th Street West (55 units) * 1737 Avenue D * 3970 Avenue D *
- B) **Sidewalk, Curb and Gutter:** 5 S 28th ST * 3006 4th Ave S * 3110 7th Ave S * 2717 1st Avenue North * 704 North 26th Street * 2125 Hewitt Drive * 2615 7th Avenue North * 2128 Hewitt Drive * 1415 Colton Boulevard * 3704 Corbin Street * 1739 43rd Street West * 3006 4th Avenue South * 802 South 32nd Street * 2222 Fairview Place * 851 Delphinium Drive * 2020 Glendale Lane * East Side of South 32nd Street between 7th Avenue South and 8th Avenue South * 424 South 29th Street * 2046 Avenue D * 3704 & 3712 Hayden Drive * 624 North 27TH Street * 608 North 27TH Street * 1113 & 1115 13TH Street West * 4507 Rangeview Drive * 4423 Rangeview Drive * 1819 Cody Drive *
- C) **Sidewalk, Drive Aprons:** 4103 Phillip Street (Dev-Rel) * 2026 Pryor Lane * 1034 Calico Drive * South side of Milton Road between Main Street and Rex Lane. East side of Rex Lane Between Milton Road and the Cul de Sac *
- D) **Sidewalk, curb & Gutter, Drive Aprons:** 3414 7th Ave S * #44 30th St W * 2131 Hewitt Drive * 2125 6th Street West * 104 Adams Street (Dev-Rel) * West Side of South 32nd between 8th Avenue South and 9th Avenue South * 2305 & 2309 Virginia Lane * 1444 Colton Boulevard * West Side of South 31st Street between 7th Ave South and 8th Avenue South * Both Sides of North 24th Street between 6th Avenue North and 7th Avenue North * 502 Nelson Drive * 1814 & 1818 Avenue D * Both Sides of 19TH Street West between Custer Avenue and Miles Avenue *
- E) **Sidewalk, curb & gutter Drive Aprons & Alley Aprons:** South Side of 7th Avenue South between South 31st and South 32nd Street * North Side of 8th Avenue South between South 31st and South 32nd Street *

- F) **Curb & Gutter:** 3222 Redwood Lane * 2127 Concord Drive * 1818 & 1824 Columbine Drive * 624 Avenue C * 1703 Bitterroot Drive * 2608 Yellowstone Avenue * 2649 Cody Lane *
- G) **Curb, Gutter, Drive Aprons:** * West Side of South 32nd Street between 8th Avenue South and 9th Avenue South * 1721 Mariposa Lane * Both sides of Marguite Blvd. Between Forsythia Blvd. to the Cul De Sac to the East *
- H) **Drive Aprons :** 1721 Mariposa Lane * 2212 Elizabeth Street * 704 Calhoun Lane (Dev-Rel) * 309 South 35th Street (Dev-Rel) *
- I) **Alley Aprons:** Both sides of 5th Street West between Lewis Avenue and Clark Avenue *
- J) **Alley Paving only:** 742 Avenue B (Dev-Rel) *

WO 08-02 Misc/Developer Related
Exhibit B

Tax Code	SID #	SID Pay-off	Delinquent	WO 08-02- Assessment	SID Pay-off + Delinquent + WO 08-02- Assessment	Estimated Market Value
A00737				\$ 8,098.90	\$ 8,098.90	\$ 103,445.00
A01290				\$ 10,336.94	\$ 10,336.94	\$ 13,982.00
A01407				\$ 10,232.77	\$ 10,232.77	\$ 44,550.00
A01674				\$ 10,858.95	\$ 10,858.95	\$ 19,800.00
A01675				\$ 1,704.27	\$ 1,704.27	\$ 17,249.00
A01676				\$ 1,062.18	\$ 1,062.18	\$ 39,665.00
A01677				\$ 583.34	\$ 583.34	\$ 28,750.00
A01678				\$ 3,151.70	\$ 3,151.70	\$ 30,096.00
A01679				\$ 3,280.12	\$ 3,280.12	\$ 24,763.00
A01680A				\$ 3,913.06	\$ 3,913.06	\$ 19,931.00
A01681				\$ 3,520.75	\$ 3,520.75	\$ 25,871.00
A01682				\$ 3,155.39	\$ 3,155.39	\$ 47,783.00
A01683				\$ 1,704.27	\$ 1,704.27	\$ 25,475.00
A01684				\$ 1,704.27	\$ 1,704.27	\$ 22,373.00
A01685	9902	\$ 283.90	\$ -	\$ 583.34	\$ 867.24	\$ 38,854.00
A01686				\$ 1,749.99	\$ 1,749.99	\$ 150,237.00
A01793				\$ -	\$ -	\$ 51,150.00
A01794	2401	\$ 197.51	\$ -	\$ -	\$ 197.51	\$ 78,487.00
A01795				\$ 1,883.47	\$ 1,883.47	\$ 35,904.00
A01969				\$ 2,285.41	\$ 2,285.41	\$ 64,878.00
A01970				\$ 2,413.09	\$ 2,413.09	\$ 49,771.00
A01971				\$ 2,711.00	\$ 2,711.00	\$ 44,266.00
A01972				\$ 3,426.72	\$ 3,426.72	\$ 40,854.00
A01987				\$ 2,619.73	\$ 2,619.73	\$ 52,338.00
A01988				\$ -	\$ -	\$ 32,802.00
A01989				\$ 3,858.08	\$ 3,858.08	\$ 72,798.00
A01990				\$ 2,952.24	\$ 2,952.24	\$ 35,904.00
A01991				\$ 1,583.68	\$ 1,583.68	\$ 62,205.00
A01992				\$ 7,737.08	\$ 7,737.08	\$ 83,529.00
A03027				\$ 16,806.40	\$ 16,806.40	\$ 175,958.00
A03131				\$ 510.24	\$ 510.24	\$ 60,786.00
A03178				\$ -	\$ -	\$ 72,072.00
A04129				\$ 927.22	\$ 927.22	\$ 79,002.00
A04555				\$ -	\$ -	\$ 68,178.00
A04933				\$ 1,344.59	\$ 1,344.59	\$ 149,292.00
A05187				\$ 1,184.06	\$ 1,184.06	\$ 22,298.00
A05658				\$ -	\$ -	\$ 89,891.00
A05778				\$ -	\$ -	\$ 78,738.00
A05959				\$ -	\$ -	\$ 80,058.00
A06511				\$ 1,448.38	\$ 1,448.38	\$ 102,828.00
A06566				\$ 5,282.90	\$ 5,282.90	\$ 74,514.00
A06912				\$ 8,776.19	\$ 8,776.19	\$ 66,726.00
A07225				\$ 7,999.85	\$ 7,999.85	\$ 7,854.00

WO 08-02 Misc/Developer Related
Exhibit B

Tax Code	SID #	SID Pay-off	Delinquent	WO 08-02- Assessment	SID Pay-off + Delinquent + WO 08-02- Assessment	Estimated Market Value
A07235				\$ 4,160.75	\$ 4,160.75	\$ 51,809.00
A07236				\$ 758.18	\$ 758.18	\$ 37,883.00
A07262				\$ 913.14	\$ 913.14	\$ 541,875.00
A07265				\$ 2,720.76	\$ 2,720.76	\$ 72,534.00
A07642				\$ 731.98	\$ 731.98	\$ 71,082.00
A07738				\$ 1,498.21	\$ 1,498.21	\$ 72,731.00
A07740				\$ 719.15	\$ 719.15	\$ 73,193.00
A07741				\$ 941.73	\$ 941.73	\$ 75,437.00
A07742				\$ 1,375.32	\$ 1,375.32	\$ 75,635.00
A07743				\$ 3,486.01	\$ 3,486.01	\$ 73,854.00
A07744	9808	\$ 38.30	\$ -	\$ 1,626.12	\$ 1,664.42	\$ 71,742.00
A07746				\$ 2,422.59	\$ 2,422.59	\$ 56,892.00
A07930				\$ 3,312.14	\$ 3,312.14	\$ 60,984.00
A07931				\$ 684.90	\$ 684.90	\$ 67,716.00
A07939				\$ 2,054.70	\$ 2,054.70	\$ 66,924.00
A08324				\$ 757.15	\$ 757.15	\$ 73,656.00
A08325				\$ 770.51	\$ 770.51	\$ 74,118.00
A08447				\$ -	\$ -	\$ 53,733.00
A09293				\$ 4,378.99	\$ 4,378.99	\$ 101,838.00
A09775				\$ 856.12	\$ 856.12	\$ 48,444.00
A09881				\$ 629.06	\$ 629.06	\$ 71,280.00
A09882				\$ 1,095.00	\$ 1,095.00	\$ 68,244.00
A10323				\$ -	\$ -	\$ 66,989.00
A10782				\$ 508.92	\$ 508.92	\$ 175,692.00
A13024A				\$ 9,458.18	\$ 9,458.18	\$ 111,870.00
A13024B				\$ 12,346.78	\$ 12,346.78	\$ 106,392.00
A13047B				\$ -	\$ -	\$ 209,022.00
A13161				\$ 5,071.01	\$ 5,071.01	\$ 115,368.00
A13333				\$ 781.54	\$ 781.54	\$ 62,172.00
A13443				\$ 499.16	\$ 499.16	\$ 54,450.00
A13444				\$ 224.62	\$ 224.62	\$ 72,204.00
A13445				\$ 2,225.01	\$ 2,225.01	\$ 61,314.00
A13448				\$ 941.74	\$ 941.74	\$ 58,872.00
A13449				\$ 1,860.62	\$ 1,860.62	\$ 68,640.00
A13450				\$ 1,670.22	\$ 1,670.22	\$ 61,380.00
A13451				\$ 1,609.37	\$ 1,609.37	\$ 62,502.00
A13468				\$ 2,715.20	\$ 2,715.20	\$ 75,306.00
A13559				\$ 1,405.27	\$ 1,405.27	\$ 89,628.00
A13568				\$ 2,715.20	\$ 2,715.20	\$ 70,290.00
A13569				\$ 2,676.68	\$ 2,676.68	\$ 67,386.00
A13570				\$ 2,701.45	\$ 2,701.45	\$ 63,690.00
A13571				\$ 1,056.93	\$ 1,056.93	\$ 71,940.00
A13572				\$ 885.21	\$ 885.21	\$ 69,432.00

WO 08-02 Misc/Developer Related
Exhibit B

Tax Code	SID #	SID Pay-off	Delinquent	WO 08-02- Assessment	SID Pay-off + Delinquent + WO 08-02- Assessment	Estimated Market Value
A13573				\$ 483.90	\$ 483.90	\$ 70,423.00
A13574				\$ 1,969.08	\$ 1,969.08	\$ 68,310.00
A14010				\$ 2,775.32	\$ 2,775.32	\$ 71,808.00
A14733				\$ 1,853.15	\$ 1,853.15	\$ 78,870.00
A14873				\$ -	\$ -	\$ 69,498.00
A16098				\$ 3,930.11	\$ 3,930.11	\$ 98,670.00
A16654				\$ 1,745.28	\$ 1,745.28	\$ 79,332.00
A16658				\$ 2,722.47	\$ 2,722.47	\$ 77,352.00
A16659				\$ 1,121.37	\$ 1,121.37	\$ 70,158.00
A16660				\$ -	\$ -	\$ 67,122.00
A16666				\$ 1,849.22	\$ 1,849.22	\$ 76,230.00
A17675				\$ 3,197.61	\$ 3,197.61	\$ 269,365.00
A18829				\$ 2,178.37	\$ 2,178.37	\$ 43,758.00
A20195				\$ 2,716.83	\$ 2,716.83	\$ 40,656.00
A20544	1339	\$ 1,562.41	\$ -	\$ 972.47	\$ 2,534.88	\$ 66,264.00
A21582				\$ 1,509.77	\$ 1,509.77	\$ 122,760.00
A21584				\$ 1,216.52	\$ 1,216.52	\$ 110,550.00
A21585				\$ 1,201.52	\$ 1,201.52	\$ 93,588.00
A21586				\$ 2,456.97	\$ 2,456.97	\$ 98,604.00
A24846				\$ 2,524.42	\$ 2,524.42	\$ 90,156.00
A26474				\$ 1,950.78	\$ 1,950.78	\$ 285,175.00
A27989				\$ 294.59	\$ 294.59	\$ 61,908.00
A27990				\$ 294.60	\$ 294.60	\$ 60,588.00
A27991				\$ 294.60	\$ 294.60	\$ 61,776.00
A27992				\$ 294.60	\$ 294.60	\$ 65,604.00
A27993				\$ 294.60	\$ 294.60	\$ 57,486.00
A27994				\$ 294.60	\$ 294.60	\$ 60,192.00
A27995				\$ 294.60	\$ 294.60	\$ 63,228.00
A27996				\$ 294.60	\$ 294.60	\$ 61,974.00
A27997				\$ 294.60	\$ 294.60	\$ 62,370.00
A27998				\$ 294.60	\$ 294.60	\$ 61,776.00
A27999				\$ 294.60	\$ 294.60	\$ 64,680.00
A28000				\$ 294.60	\$ 294.60	\$ 57,618.00
A28001				\$ 294.60	\$ 294.60	\$ 61,644.00
A28002				\$ 294.60	\$ 294.60	\$ 58,344.00
A28003				\$ 294.60	\$ 294.60	\$ 61,248.00
A28004				\$ 294.60	\$ 294.60	\$ 57,618.00
A28005				\$ 294.60	\$ 294.60	\$ 63,690.00
A28006				\$ 294.60	\$ 294.60	\$ 61,446.00
A28007				\$ 294.60	\$ 294.60	\$ 66,396.00
A28008				\$ 294.60	\$ 294.60	\$ 64,548.00
A28009				\$ 294.60	\$ 294.60	\$ 58,674.00
A28010				\$ 294.60	\$ 294.60	\$ 58,344.00

WO 08-02 Misc/Developer Related
Exhibit B

Tax Code	SID #	SID Pay-off	Delinquent	WO 08-02- Assessment	SID Pay-off + Delinquent + WO 08-02- Assessment	Estimated Market Value
A28011				\$ 294.60	\$ 294.60	\$ 63,822.00
A28012				\$ 294.60	\$ 294.60	\$ 60,852.00
A28013				\$ 294.60	\$ 294.60	\$ 60,984.00
A28014				\$ 294.60	\$ 294.60	\$ 61,908.00
A28015				\$ 294.60	\$ 294.60	\$ 62,172.00
A28016				\$ 294.60	\$ 294.60	\$ 58,212.00
A28017				\$ 294.60	\$ 294.60	\$ 58,080.00
A28018				\$ 294.60	\$ 294.60	\$ 58,080.00
A28019				\$ 294.60	\$ 294.60	\$ 65,406.00
A28020				\$ 294.60	\$ 294.60	\$ 64,416.00
A28021				\$ 294.60	\$ 294.60	\$ 58,080.00
A28022				\$ 294.60	\$ 294.60	\$ 67,056.00
A28023				\$ 294.60	\$ 294.60	\$ 65,802.00
A28024				\$ 294.60	\$ 294.60	\$ 67,254.00
A28025				\$ 294.60	\$ 294.60	\$ 61,842.00
A28026				\$ 294.60	\$ 294.60	\$ 71,214.00
A28027				\$ 294.60	\$ 294.60	\$ 59,466.00
A28028				\$ 294.60	\$ 294.60	\$ 72,270.00
A28029				\$ 294.60	\$ 294.60	\$ 62,700.00
A28030				\$ 294.60	\$ 294.60	\$ 70,290.00
A28031				\$ 294.60	\$ 294.60	\$ 66,528.00
A28032				\$ 294.60	\$ 294.60	\$ 69,960.00
A28033				\$ 294.60	\$ 294.60	\$ 68,112.00
A28034				\$ 294.60	\$ 294.60	\$ 75,900.00
A28035				\$ 294.60	\$ 294.60	\$ 61,974.00
A28036				\$ 294.60	\$ 294.60	\$ 69,960.00
A28037				\$ 294.60	\$ 294.60	\$ 58,740.00
A28038				\$ 294.60	\$ 294.60	\$ 63,756.00
A28039				\$ 294.60	\$ 294.60	\$ 74,514.00
A28040				\$ 294.60	\$ 294.60	\$ 66,924.00
A28041				\$ 294.60	\$ 294.60	\$ 66,924.00
A28042				\$ 294.60	\$ 294.60	\$ 72,336.00
A28043				\$ 294.60	\$ 294.60	\$ 72,336.00
A29306	1366	\$ 2,234.88	\$ -	\$ -	\$ 2,234.88	\$ 252,780.00
A29315	1366	\$ 2,181.67	\$ -	\$ -	\$ 2,181.67	\$ 199,188.00
C00135				\$ -	\$ -	\$ 101,573.00
C00436				\$ 99.55	\$ 99.55	\$ 69,894.00
C01205				\$ -	\$ -	\$ 85,074.00
C01206				\$ -	\$ -	\$ 75,966.00
C05676				\$ 910.74	\$ 910.74	\$ 73,457.00
C13198				\$ 1,421.16	\$ 1,421.16	\$ 215,952.00
D05335				\$ 15,782.26	\$ 15,782.26	\$ 1,680,504.00
D12010				\$ 12,005.52	\$ 12,005.52	\$ 22,033.00