

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Yellowstone County, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$297,000 POOLED SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH BOND, SERIES 2009; CREATING SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH FUND AND PRESCRIBING COVENANTS OF THE CITY FOR THE SECURITY OF THE HOLDERS OF THE BOND" (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 regular meeting on September 14, 2009, and that the meeting was duly held by the City Council Members 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Council Members voted in favor thereof: Ronquillo, Gaghen, Pitman, Brewster, Veis, Ruegamer, McCall, Ulledalen, Astle, Clark ; voted against the same: none ; abstained from voting thereon: none ; or were absent: none .

WITNESS my hand and seal officially this 14th day of September, 2009.

Cari Martin
City Clerk

RESOLUTION NO. 09-18868

RESOLUTION RELATING TO \$297,000 POOLED SPECIAL SIDEWALK,
CURB, GUTTER AND ALLEY APPROACH BOND, SERIES 2009; CREATING
SPECIAL SIDEWALK, CURB, GUTTER AND ALLEY APPROACH FUND
AND PRESCRIBING COVENANTS OF THE CITY FOR THE SECURITY OF
THE HOLDERS OF THE BOND

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

Section 1. Recitals. It is hereby found, determined and declared as follows:

1.01 Sale of Pooled Special Sidewalk, Curb, Gutter and Alley Approach Bond. This Council, by Resolution No. 09-18856, adopted August 10, 2009, authorized the issuance and public sale of pooled special sidewalk, curb, gutter and alley approach bonds of the City in the aggregate principal amount of \$297,000 (the "Bond") for the purpose of financing the construction of certain sidewalks, curbs, gutter and alley approach projects (the "Projects"; each, a "Project") heretofore ordered by this Council pursuant to Resolution Nos. 07-18545 and 08-18715, adopted April 9, 2007 and June 9, 2008, respectively, and as set forth on Exhibit A hereto, as the W.O. 05-02, Miscellaneous/Developer-Related Improvements (the "Miscellaneous Improvements"), and the W.O. 02-08 Milton Lane School Route Improvements (the "Milton Lane School Route Improvements") (together, the "Improvements"). Advertisements for bids for the purchase of the Bond were published in accordance with the provisions of Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106 (the "Act"). There were no bidders at the public sale conducted in accordance with applicable statutory provisions and scheduled for the August 24, 2009 meeting of the Council. As authorized by the Act, the City obtained an offer to purchase the Bond from Montana & Wyoming Oil Company, of Billings, Montana (the "Purchaser"). The Purchaser has agreed to purchase from the City the Bond at a purchase price of \$297,000, plus accrued interest thereon from the date of original issue of the Bond, at the interest rate of 5.95% per annum. The Purchaser is purchasing the Bond as an investment and has no intention to sell the Bond.

In Resolution Nos. 07-18545 and 08-18715, adopted April 9, 2007 and June 9, 2008, respectively, this Council found that it is in the public interest, and in the best interest of the City and the properties, to secure payment of principal of and interest on the Bond by the Special Improvement District Revolving Fund of the City, on the basis of the factors required to be considered under Section 7-12-4225 of the Act. Those findings are hereby ratified and confirmed.

1.02 Costs. It is currently estimated that the costs and expenses to be assessed against properties benefited by the Improvements, including costs of preparation of plans, specifications, maps, profiles, engineering superintendence and inspection, preparation of assessment rolls, expenses of making the assessments, the cost of work and materials under the construction contract and all other costs and expenses, including the deposit of proceeds in the Revolving Fund, is not less than \$297,000 (\$244,000 for the Miscellaneous Improvements, and \$53,000 for the Milton Lane School Route Improvements). Such amount will be levied and assessed upon the assessable real property benefited by the Improvements. This Council has jurisdiction and is required by law to levy and assess such amount, to collect such special assessments and credit the same to the pooled special sidewalk, curb, gutter and alley approach sinking fund created for the Improvements, which fund is to be maintained on the official books and records of the City separate from all other City funds, for the payment of principal and interest when due on the bonds herein authorized.

1.03 Compliance with Constitution and Statutes. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 14, Part 41, and Title 7, Chapter 12, Parts 41 and 42, as amended, in order to make the Bond valid and binding special obligations in accordance with their terms and in accordance with the terms of this resolution have been done, do exist, have happened and have been performed in regular and due form, time and manner as required.

Section 2. \$297,000 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Bond, Series 2009.

2.01 Principal Amount, Maturities, Date, Denominations and Interest Rate. For the purpose of paying the costs and expenses incurred in the construction of the Improvements and in anticipation of the collection of special assessments to be levied therefor, and in accordance with the contract of sale described in Section 1.01, the City shall forthwith issue and deliver to the Purchaser its Pooled Special Sidewalk, Curb, Gutter and Alley Approach Bond, Series 2009, in the aggregate principal amount of \$297,000, payable solely from the 2009 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Sinking Fund of the City (the "2009 Sidewalk Sinking Fund"). The Bond shall be issued as a single amortized bond in the principal amount of \$297,000 and

bear interest at the rate of 5.95% per annum from the date of delivery until paid. Equal installments of principal and interest on the Bond shall be payable on each January 1 and July 1, commencing January 1, 2010 and continuing through July 1, 2021 in the amounts as shown on the schedule attached hereto as Exhibit C. The Bond shall represent all of the principal installments of the issue.

2.02 Registered Form; Payment. The Bond shall be issuable only in fully registered form, and the ownership of the Bond shall be transferred only upon the Bond Register of the City hereinafter described. Principal of and premium, if any, and interest on the Bond are payable in lawful money of the United States of America. Principal and premium, if any, shall be payable by wire transfer in immediately available funds to such account as the Holder of the Bond shall direct the Registrar, or otherwise by check or draft drawn on the Registrar hereinafter described, upon presentation and surrender of the Bond at maturity or upon redemption at the principal office of the Registrar; provided, however, the Holder shall not be required to surrender the Bond upon partial payment or partial redemption of the Bond, but only upon final maturity. Principal and interest on the Note shall be payable on January 1 and July in each year, commencing January 1, 2010, by wire transfer in immediately available funds to such account as the Holder of the Bond shall direct the Registrar or otherwise by check or draft of the Registrar mailed to the owners of record thereof as such appear in the Bond Register as of the close of business on the first day of month in which the payment date occurs, whether or not such day is a business day.

2.03 Registration. The City hereby appoints the Financial Services Manager, to act as bond registrar, transfer agent and paying agent (the "Registrar"). The City reserves the right to appoint a bank, trust company or fiscal company as successor bond registrar, transfer agent or paying agent, as authorized by the Model Public Obligations Registration Act of Montana (the "Act"), but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed. This Section 2.04 shall establish a system of registration for the Bond as defined by the Act. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its principal office a bond register in which the Registrar shall provide for the registration of ownership of the Bond and the registration of transfers and exchanges of the Bond entitled to be registered, transferred or exchanged.

(b) Transfer. Upon surrender for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of the transfer of any Bond or principal installment thereof to be selected or called for redemption. No transfer or exchange of a Bond shall affect its order of registration for purposes of redemption pursuant to Section 2.05.

(c) Exchange of Bonds. Whenever any Bond is surrendered by the registered owner for exchange, the Registrar shall authenticate and deliver one or more new Bonds of a like aggregate principal amount and maturity, as requested by the registered owner or the owner's attorney duly authorized in writing.

(d) Cancellation. All Bonds surrendered upon any transfer or exchange shall be promptly canceled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the person in whose name any Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer of Bonds or exchange of Bonds (except for an exchange upon the partial redemption of any Bond pursuant to Section 2.05), the Registrar may impose a

charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or such Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

2.04 Execution, Registration and Delivery of Bond. The Bond shall be prepared under the direction of the Financial Services Manager and shall be executed on behalf of the City by the signatures of the Mayor, the Financial Services Manager and the City Clerk and sealed with the official seal of the City; provided that the seal and all signatures may be printed, engraved or lithographed facsimiles of the originals. In case any officer whose signature or a facsimile of whose signature shall appear on the Bond shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificate of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. The Bond shall be delivered by the Registrar to the Purchaser upon payment of \$297,000 for the principal of the Bond plus accrued interest from the registration date to the date of such delivery and payment. The Purchaser shall not be obligated to see to the application of the purchase price, but from the proceeds of the Bond the Financial Services Manager shall credit forthwith the balance of such proceeds to the Construction Subaccounts in the respective Project Accounts in the 2009 Sidewalk Sinking Fund to be used solely for the payment of the cost and expenses necessarily incurred in the construction of the Improvements and costs of issuance and sale of the Bond, except that the accrued interest received shall be deposited in the Interest Subaccounts in the respective Project Accounts in the 2009 Sidewalk Sinking Fund and applied in payment of interest on the Bond when due.

2.05 Prepayment; when Mandatory Redemption Required. The principal installments of the Bond are subject to mandatory redemption in order of registration on any interest payment date if, after paying all principal and interest then currently due on the Bond, there are monies available in or to the credit of the 2009 Sidewalk Sinking Fund, either from the prepayment of assessments or from surplus proceeds of the Bond not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same. The principal installments of the Bond are subject to redemption at the option of the City from other sources of funds available therefor on any interest payment date. The redemption price is equal to the amount of the principal installment or installments of the Bond to be redeemed plus interest accrued thereon to the date of redemption, without premium. The date of redemption shall be fixed by the Financial Services Manager, who shall give notice by first class mail, postage prepaid, to the owner or owners of the Bond at their address shown on the bond register, of the numbers of the principal installments to be redeemed and the date on which payment will be made, which date shall not be less than ten days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the principal installments of the Bond so redeemed shall cease to accrue.

2.06 Form of Bond. The Bond shall be prepared in substantially the form set forth in Montana Code Annotated, Section 7-12-4203, as more fully set forth in Exhibit B hereto and by this reference made a part hereof.

2.07 Application of Proceeds. The Purchaser shall not be obligated to see to the application of the purchase price. The Financial Services Manager shall credit forthwith the proceeds of the Bond as follows:

(a) Deposit to the credit of the Interest Subaccounts in the respective Project Accounts in the 2009 Sidewalk Sinking Fund the amount of accrued interest, if any, paid by the Purchaser thereof to the date of delivery of the Bond, in proportion to the principal amounts of the Bond allocable to each of the Projects, as set forth in Section 1.02, which will be applied to payment of interest on the Bond when due;

(b) Deposit \$14,850 to the Revolving Fund (\$12,200 for the Miscellaneous Improvements, and \$2,650 for the Milton Lane School Route Improvements); and

(c) Deposit the balance of the proceeds to the Construction Subaccounts in the respective Project Accounts, in proportion to the principal amounts of the Bond allocable to each of the Projects, including costs of issuance, to be used for the purposes described in Section 3.02.

Section 3. 2009 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Sinking Fund.

3.01 2009 Sidewalk Sinking Fund. The 2009 Sidewalk Sinking Fund is hereby created and designated as the "2009 Pooled Special Sidewalk, Curb, Gutter and Alley Approach Sinking Fund." The 2009 Sidewalk Sinking Fund shall be maintained as a separate bookkeeping account by the Financial Services Manager on the books and records of the City. Within the 2009 Sidewalk Sinking Fund there shall be maintained separate accounts for the Miscellaneous Improvements and the Milton Lane School Route Improvements shown on Exhibit A hereto, designated accordingly (collectively, the "Project Accounts"). Within each Project Account there shall be maintained three separate subaccounts, designated as the "Construction Subaccount," the "Principal Subaccount" and the "Interest Subaccount," respectively.

3.02 Construction Subaccounts. There shall be credited to the Construction Subaccount in each of the Project Accounts the proceeds of the sale of the Bond, less any interest accrued thereon to the date of delivery to the Purchaser. All costs and expenses of constructing the Improvements to be paid from proceeds of the Bond shall be paid from time to time as incurred and allowed from the Construction Subaccount in the respective Project Accounts in accordance with the provisions of applicable law, and moneys in such Construction Subaccount shall be used for no other purpose; provided that after all claims and expenses with respect to the Improvements have been fully paid and satisfied, any moneys remaining in the Construction Subaccount shall be transferred to the Principal Subaccount in the Project Account for the Project and applied to the redemption of the Bond.

3.03 Principal Subaccounts and Interest Subaccounts. Moneys in the Principal Subaccounts and the Interest Subaccounts shall be used only for payment of the principal of and interest on the Bond as such payments become due, or to prepay and redeem the Bond. Upon the collection of the installment of principal and interest due on November 30 and May 31 of each year on the special assessments to be levied with respect to the Improvements, the Financial Services Manager shall credit to the Interest Subaccounts in the respective Project Accounts so much of said special assessments as is collected as interest payment, and credit the balance of such assessments to the Principal Subaccounts. Any installment of any special assessment paid prior to its due date with interest accrued thereon to the nearest bond call date shall be credited with respect to principal and interest payments in the same manner as other assessments are credited to the 2009 Sidewalk Sinking Fund. All moneys in the Interest Subaccounts and the Principal Subaccounts shall be used first to pay interest due, and any remaining moneys shall be used to pay the Bond then due and, if moneys are available, to redeem the Bond or principal installments thereof in accordance with Section 2.05; provided that any money transferred to the Principal Subaccount from the Construction Subaccount pursuant to Section 3.02 or any prepaid special assessments shall be applied to redeem the Bond or principal installments thereof to the extent possible on the next interest payment date for which notice of redemption may properly be given pursuant to Section 2.05. Redemption of the Bond from the Principal Subaccount shall be in order of the principal installments they represent as provided in Section 2.05, and interest shall be paid from the Interest Subaccount as accrued thereon to the date of redemption, in accordance with the provisions of Montana Code Annotated, Sections 7-12-4206.

3.04 Loans From Revolving Fund. The Council shall annually or more often if necessary issue an order authorizing a loan or advance from the Special Improvement District Revolving Fund to each of the Project Accounts in an amount sufficient to make good any deficiency then existing in the Interest Subaccount in the Project Account, and shall issue an order authorizing a loan or advance from the Revolving Fund to the Project Account in an amount sufficient to make good any deficiency then existing in the Principal Subaccount of the Project Account, to the extent that moneys are available in the Revolving Fund. Pursuant to Ordinance No. 1096 and in connection with the public offering of the Bond, the City has undertaken and agreed to provide funds for the Revolving Fund by levying such tax or making such loan from the General Fund as authorized by Montana Code Annotated, Section 7-12-4222. In the event that the balance on hand in the Revolving Fund fifteen days prior to any date when interest is due on special improvement district bonds and sidewalk, curb, gutter and alley approach warrants of the City is not sufficient to make good all deficiencies then existing in the improvement district fund or sidewalk, curb, gutter and alley approach fund for which the City has promised to make loans from the Revolving Fund, the balance on hand in the Revolving Fund shall be allocated to the funds in which such deficiencies then exist in proportion to the amounts of the deficiencies on the respective dates of receipt of such money, until all interest accrued on such special improvement district bonds and sidewalk, curb, gutter and alley approach warrants of the City has been paid. On any date when all accrued interest on special improvement

district bonds and sidewalk, curb, gutter and alley approach warrants of the City payable from funds for which the City has promised to make loans from the Revolving Fund has been paid, any balance remaining in the Revolving Fund shall be loaned or advanced to the improvement district fund or sidewalk, curb, gutter and alley approach fund for payment and redemption of bonds or warrants to the extent the improvement district fund or sidewalk, curb, gutter and alley approach fund is deficient for such purpose, in an amount proportionate to the amount of such deficiency.

The City hereby determines, covenants and agrees to levy the property tax described in the immediately preceding paragraph to provide funds for the Revolving Fund so long as any Bonds are outstanding to the extent required under the provisions of this Resolution and the Act, even though such property tax levy may, under applicable law or provisions of the home rule charter of the City, require that property tax levies of the City for other purposes be reduced correspondingly.

Section 4. City Covenants. The City covenants and agrees with the holder from time to time of the Bond that until the full principal amount of the Bond and interest thereon is fully paid:

4.01 Compliance with Covenants. The City will hold the 2009 Sidewalk Sinking Fund and the Special Improvement District Revolving Fund of the City created by Ordinance No. 1096, adopted June 3, 1930 (the "Revolving Fund"), as trust funds, separate and apart from all of its other funds, and the City, its officers and agents, will comply with all covenants and agreements contained in this resolution. The covenants hereinabove made with respect to the 2009 Sidewalk Sinking Fund and the Revolving Fund are in accordance with the undertaking and agreement of the City made in connection with the sale of the Bond as set forth in Section 1.01.

4.02 Construction of Improvements. The City will do all acts and things necessary to enforce the provisions of the construction contracts entered into or to be entered into for the Improvements and to ensure the completion of the Improvements in accordance with the plans and specifications therefor and within the time therein provided, and will pay all costs thereof promptly as incurred and allowed, out of the Project Accounts in the Construction Subaccount and within the amount of the bond proceeds appropriated thereto.

4.03 Assessments. The City will do all acts and things necessary for the final and valid levy of special assessments upon all assessable property benefited by the Improvements, in accordance with the Constitution and laws of the State of Montana and the Constitution of the United States, in an aggregate principal amount not less than \$297,000 of which \$244,000 shall be assessed against properties benefited by the Miscellaneous Improvements, and \$53,000 for the Milton Lane School Route Improvements. Such special assessments shall be levied on each lot or parcel of land in front of which sidewalks, curbs and gutters are to be constructed and each lot or parcel of land having an access via the alley approach and, unless prepaid in full, shall be payable in equal semiannual installments over a period of twelve years, each installment being due in an amount equal to one twenty-fourth (1/24th) of the principal amount of each assessment with interest on the whole amount remaining unpaid at an annual rate equal to the sum of: (i) the average annual interest rate then borne by the outstanding principal of the Bond, plus (ii) one-half of one percent per annum (0.50%), interest being payable with principal installments. The assessments to be levied will be payable on the 30th day of November in each of the years 2009 through 2020, and on the 31st day of May in the years 2010 through 2021. The first partial payment of each such assessment shall include interest on the entire assessment, the date of original registration of the Bond, to January 1, 2010, and each subsequent partial payment shall include interest for six months on the unpaid balance of such special assessment. All installments of special assessments not paid in full on or before the date due shall become delinquent on that date. The assessments shall constitute a lien upon and against the property against which they are made and levied, which lien may be extinguished only by payment of the assessment with all penalties, cost and interest as provided in Montana Code Annotated, Section 7-12-4191. No tax deed issued with respect to any lot or parcel of land shall operate as payment of any installment of assessment thereon which is payable after the execution of such deed, and any tax deed so issued shall convey title subject only to the lien of said future installments, as provided in Montana Code Annotated, Section 15-18-309.

4.04 Re-assess and Re-levy. If at any time and for whatever reason any special assessment or tax herein agreed to be levied is held invalid, the City and this Council, its officers and employees, will take all steps necessary to correct the same and to re-assess and re-levy the same, including the ordering of work, with the same force and effect as if made at the time provided by law, ordinance or resolution relating thereto, and will re-assess and re-levy the same with the same force and effect as an original levy thereof, as authorized in Montana Code Annotated, Section 7-12-4186. Any special assessment, or re-assessment or re-levy shall, so far as practicable, be levied and collected as it would have been if the first levy had been enforced including the levy and collection of any interest accrued on the first levy.

If proceeds of the Bond, including investment income thereon, are applied to the redemption of the Bond, as provided in Montana Code Annotated, Sections 7-12-4205 and 7-12-4206, or if refunding bonds are issued and

the principal amount of the outstanding bonds is decreased or increased, the City will reduce or increase, respectively, the assessments levied in the project area and then outstanding pro rata by the principal amount of such prepayment or the increment above or below the outstanding principal amount of bonds represented by the refunding bonds. The City and this Council, its officers and employees will re-assess and re-levy such assessments, with the same effect as an original levy, in such reduced or increased amounts in accordance with the provisions of Montana Code Annotated, Sections 7-12-4176 through 7-12-4178.

4.05 Litigation. There is now no litigation pending or, to the best knowledge of the City, threatened, questioning the validity or regularity of the ordering of the Improvements, any contract for construction of the Improvements, the levy and collection of special assessments as described herein or the undertaking and agreement of the City to make up any deficiency in the collection of special assessments through the levy of taxes and the making of advances from the Revolving Fund, or the right and powers of the City to issue the Bond, or in any manner questioning the existence of any condition precedent to the exercise of the City's powers in these matters. If any such litigation should be initiated or threatened, the City will forthwith notify in writing the Purchaser, and will furnish the Purchaser a copy of all documents, including pleadings, in connection with such litigation.

Section 5. Tax Matters.

5.01 General Covenant. The City covenants and agrees with the owners from time to time of the Bond that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Bond to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Bond will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

5.02 Arbitrage Certification. The Mayor, the City Clerk and the Financial Services Manager, being the officers of the City charged with the responsibility for issuing the Bond pursuant to this resolution, are authorized and directed to execute and deliver to the Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bond, it is reasonably expected that the proceeds of the Bond will be used in a manner that would not cause the Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the Regulations.

5.03 Arbitrage Rebate. The City acknowledges that the Bond is subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Bond from gross income for federal income tax purposes, unless the Bond qualifies for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no "gross proceeds" of the Bond (other than amounts constituting a "bona fide debt service fund") arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Mayor, City Clerk and Financial Services Manager are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

5.04 Information Reporting. The City shall file with the Secretary of the Treasury, not later than February 15, 2010, a statement concerning the Bond containing the information required by Section 149(e) of the Code.

5.05 Qualified Tax-Exempt Obligations. Pursuant to Section 265(b)(3)(B)(ii) of the Code, the Borrower hereby designates the Bond as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The Borrower has not designated any obligations in 2009 other than its \$495,000 Special Improvement District No. 1384 Bonds; \$3,083,700 Water System Revenue Bonds (DNRC Drinking Water State Revolving Loan Program), Consisting of \$333,700 Series 2009B Bond and \$2,750,000 Series 2009C Bond; and \$5,746,300 Sewer System Revenue Bonds (DNRC Water Pollution Control State Revolving Loan Program), Consisting of \$359,300 Series 2009B Bond and \$5,387,000 Series 2009C Bond under Section 265(b)(3). The Borrower hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the Borrower and all "subordinate entities" of the Borrower in 2009 in an amount greater than \$30,000,000.

Section 6. Authentication of Transcript. The officers of the City are hereby authorized and directed to furnish to the Purchaser and to the attorneys approving the legality of the Bond certified copies of all proceedings relating to the issuance of the Bond and such other certificates and affidavits as may be required to show the right, power and authority of the City to issue the Bond, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the City as to the statements contained therein.

Section 7. Defeasance.

7.01 General. When the liability of the City on the Bond issued under and secured by this Resolution has been discharged as provided in this Section 7, all pledges, covenants and other rights granted by this Resolution to the owners of the Bond shall cease.

7.02 Payment. The City may discharge its liability with reference to any Bond, principal installment thereof or installment of interest thereon which is due on any date by depositing with the Registrar on or before that date a sum sufficient and providing proceeds available for the payment thereof in full; or if any Bond or installment of interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Registrar a sum sufficient and providing proceeds available for the payment thereof in full with interest accrued to the date of such deposit.

7.03 Redemption. The City may also discharge its liability with reference to any installment of the Bond which is called for redemption on any date in accordance with its terms by depositing with the Registrar on or before that date an amount equal to the principal and interest which are then due thereon; provided that notice of such redemption has been duly given as provided in this Resolution.

7.04 Defeasance by Escrow. The City may also at any time discharge its liability in its entirety with reference to the Bond, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal and interest to become due on all Bonds on or before maturity or, if any Bond has been duly called for redemption or provision irrevocably made therefor, on or before the designated redemption date.

7.05 Irrevocable Deposits. If an officer of the City is the Registrar, any deposit made under this Section 7 with the Registrar shall be irrevocable and held for the benefit of the owners of the Bond in respect of which such deposits have been made.

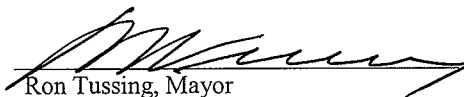
Section 8. Repeals and Effective Date.

8.01 Repeal. All provisions of other resolutions and other actions and proceedings of the City and this Council that are in any way inconsistent with the terms and provisions of this resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this resolution.

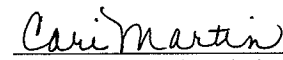
8.02 Effective Date. This resolution shall take effect immediately upon its passage and adoption by this Council.

PASSED by the City Council of Billings, Montana, this 14th day of September, 2009.

CITY OF BILLINGS:


Ron Tussing, Mayor

Attest:


Cari Martin, City Clerk

(SEAL)



EXHIBIT A

THE IMPROVEMENTS

General Description

The Bond is being issued to pay a portion of the costs of engineering, reconstructing and installing certain local improvements to benefit certain properties in the City described below consisting of various sidewalk, curb, gutter and alley approach improvements all as a part of the W.O. 05-02, Miscellaneous/Developer-Related Improvements (the "Miscellaneous Improvements"), and the W.O. 02-08, Milton Lane School Route Improvements (the "Milton Lane School Route Improvements") (together, the "Improvements") as shown below.

Miscellaneous Improvements

The Improvements described below constituting the Miscellaneous Improvements will be constructed adjacent to the properties shown under each category of Improvements.

Sidewalk:

- 2308 through 2328 Pine Street; North side of City Hall Handicap 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

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

Sidewalk, Drive Aprons:

- 1400 Kootenai Avenue; 1870 High Sierra Boulevard; 452 Katherine Ann Boulevard; 2790 Gabel Road; 1911 King Avenue West

Sidewalk, Curb and Gutter, Drive Aprons:

- 2270 George Street; 4603 to 4615 Phillip Street; Intersection of Lexington Drive and Santa Fe Drive all directions 150 ft. +/-; 1911 and 1915 Belvedere Drive; #1 South Broadway; 829 to 845 Yellowstone Avenue; 1510 and 1520 Virginia Lane; South side of Avenue D between Virginia Lane and 6th Street West; 2116 Fox Drive; 426 Nelson Drive; 2714 and 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)

Sidewalk, Curb and Gutter, Drive Aprons and Alley Aprons:

- Both sides 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

Curb and Gutter:

- 2115 11th Street West; 524 Clark Avenue; 331 Burlington Avenue; Intersection of Greenbriar Road and Lake Heights Drive; 1306 Avenue F

Curb and Gutter, Drive Aprons:

- 631 Custer Avenue

Drive Aprons:

- 2033 Main Street; 4310 North Carlton Avenue; 4207 North Carlton Avenue; 3195 Mac Masters Road

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

ADA Ramps only:

- SW corner of South 26th Street and 3rd Avenue North; 3145 Avenue F; 1902 32nd Street West

Asphalt Restoration:

- 400 and 402 Sharon Lane; 401 and 403 Sharon Lane

Milton Lane School Route Improvements

The Improvements constituting the Milton Lane School Route Improvements are: sidewalk, curb ramps, driveway approaches, pavement widening, and curb and gutter along Milton Lane from Lake Elmo Drive to the easterly property line of Bench Elementary School.

EXHIBIT B

[Face of the Bond]

UNITED STATES OF AMERICA
STATE OF MONTANA
YELLOWSTONE COUNTY

CITY OF BILLINGS

**POOLED SPECIAL SIDEWALK, CURB, GUTTER AND
ALLEY APPROACH BOND, SERIES 2009**

No. R-1

\$297,000.00

<u>Rate</u>	<u>Final Maturity Date</u>	<u>Date of Original Issue</u>
5.95%	July 1, 2021	_____, 2009

REGISTERED OWNER: MONTANA & WYOMING OIL COMPANY

PRINCIPAL AMOUNT: TWO HUNDRED NINETY-SEVEN THOUSAND DOLLARS AND NO/100

FOR VALUE RECEIVED, the City of Billings, Yellowstone County, Montana (the "City"), will pay to the registered owner identified above or registered assigns, the principal amount specified above, or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, and to pay interest on said principal amount to the registered owner hereof from its date of delivery or from such later date to which interest has been paid or duly provided for until this Bond is paid, solely from the revenues hereinafter specified, as authorized by Resolution No. 09-18868, adopted on September 14, 2009 (the "Bond Resolution"), all subject to the provisions hereinafter described relating to the redemption of this Bond before maturity. This Bond bears interest at the rate of 5.95% from the date of registration of this Bond, as expressed herein, or from such later date to which interest hereon has been paid or duly provided for, until the maturity date specified above or an earlier date on which this Bond shall have been duly called for redemption by the Financial Services Manager. The City's Financial Services Manager shall serve as Registrar and Paying Agent on the Bond. Principal and interest on this Bond is payable semi-annually on each January 1 and July 1, commencing on January 1, 2010, by wire transfer in immediately available funds to such account as the Holder of the Bond shall direct the Registrar or otherwise by check or draft mailed by the Registrar to the person in whose name this Bond is registered as of the close of business on the first day (whether or not a Business Day) of the month in which the payment date occurs, at his address as it appears on the bond register maintained by the Registrar. The principal of and interest on this Bond are payable in lawful money of the United States of America.

The Series 2009 Bond is issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 14, Part 41 and Title 7, Chapter 12, Parts 41 and 42, as amended, for the purpose of financing a portion of the cost of construction of sidewalk, curb, gutter and alley approach improvements in the City (the "Improvements"), to fund a deposit to the revolving fund and to pay costs associated with the sale and security of the Series 2009 Bond.

This Bond is payable from the collection of a special tax or assessment levied upon all assessable property benefited by the Improvements. This Bond is not a general obligation of the City.

The City has also validly established a Special Improvement District Revolving Fund (the "Revolving Fund") to secure the payment of certain of its special improvement district bonds and sidewalk, curb, gutter and alley approach bonds or warrants, including the Series 2009 Bond. The City has also agreed, to the extent permitted by the Act, to issue orders annually authorizing loans or advances from the Revolving Fund to the 2009 Special Sidewalk, Curb, Gutter and Alley Approach Sinking Fund (the "2009 Sidewalk Sinking Fund"), in amounts sufficient to make good any deficiency in the 2009 Sidewalk Sinking Fund to pay principal of or interest on the Series 2009 Bond, to the extent that funds are available in the Revolving Fund, and to provide funds for the Revolving Fund by annually making a tax levy or loan from its general fund in an amount sufficient for that purpose, subject to the limitation that no such tax levy or loan may in any year cause the balance in the Revolving Fund to exceed five percent of the principal amount of the City's then outstanding special improvement district bonds and sidewalk, curb, gutter and alley approach bonds and warrants secured thereby and the durational limitations specified in the Act. While any property tax levy to be made by the City to provide funds for the Revolving Fund is subject to levy limits under current law, the City has agreed in the Bond Resolution to levy

property taxes to provide funds for the Revolving Fund to the extent described in this paragraph and, if necessary, to reduce other property tax levies correspondingly to meet applicable levy limits.

Outstanding principal of this Series 2009 Bond shall bear interest from its date of delivery until paid at the rate of 5.75% per annum. As used herein, "Business Day" means any day other than (i) a Saturday or Sunday, or (ii) a legal holiday in the State of Montana. [Interest on the Note shall be calculated on the basis of a year of 360 days composed of twelve 30-day months.] Closing shall mean the day of execution and delivery of the Note and receipt of the purchase price thereof.

The principal installments of this Bond are subject to mandatory redemption in order of registration on any interest payment date if, after paying all principal and interest then currently due on this Bond, there are monies available in or to the credit of the 2009 Sidewalk Sinking Fund of the City, either from the prepayment of assessments or from surplus proceeds of the Bond not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same. The principal installments of this Bond are subject to redemption at the option of the City from other sources of funds available therefor on any interest payment date. The redemption price is equal to the amount of the principal installment or installments of the Bond to be redeemed plus interest accrued thereon to the date of redemption, without premium. The date of redemption shall be fixed by the Financial Services Manager, who shall give notice by first class mail, postage prepaid, to the owner or owners of this Bond at their addresses shown on the bond register, of the numbers of the principal installments to be redeemed and the date on which payment will be made, which date shall not be less than ten days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the principal installments of this Bond so redeemed shall cease to accrue.

As provided in the Bond Resolution, and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Series 2009 Bond of other authorized denominations. Upon such transfer or exchange, the City will cause a new Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED AND RECITED that all things required to be done precedent to the issuance of this Bond have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of the City of Billings, Montana, relating to the issuance hereof; and that the opinion attached hereto is a true copy of the legal opinion given by Bond Counsel with reference to the Series 2009 Bond, dated the date of original issuance and delivery of the Series 2009 Bond.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication hereon shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Billings, Montana, by its City Council has caused this Bond to be executed by the signatures of the Mayor, the Financial Services Manager and the City Clerk and by the official seal of the City.

CITY OF BILLINGS, MONTANA

Mayor

Financial Services Manager

(Seal)

City Clerk

Date:

CERTIFICATE OF AUTHENTICATION

This Series 2009 Bond is delivered pursuant to the Bond Resolution mentioned herein.

CITY OF BILLINGS, MONTANA,
as Registrar

By _____
Financial Services Manager

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM –	as tenants in common	UTMA Custodian..... (Cust) (Minor)
TEN ENT –	as tenants by the entireties	
JT TEN –	as joint tenants with right of survivorship and not as tenants in common	under Uniform Transfers to Minors Act (State)

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights and title thereunder, and hereby irrevocably constitutes and appoints _____ as attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER
OF ASSIGNEE:

/_____/

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.

SIGNATURE GUARANTEED

Signature(s) must be guaranteed by an "eligible guarantor institution" meeting the requirements of the Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.