

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 09-18890, entitled: "RESOLUTION ESTABLISHING CRITERIA FOR APPROVAL OF PROJECTS FOR FINANCING AS RECOVERY ZONE FACILITY BONDS" (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 October 26, 2009, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Council Members voted in favor thereof: Gaghen, Pitman, Brewster, Veis, Ruegamer, McCall, Astle, and Clark; voted against the same \_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_; or were absent: Ronquillo, Ulledalen.

WITNESS my hand officially this 26<sup>th</sup> day of October, 2009.



Cari Martin  
City Clerk

RESOLUTION NO. 09-18890

RESOLUTION ESTABLISHING CRITERIA FOR APPROVAL OF PROJECTS  
FOR FINANCING AS RECOVERY ZONE FACILITY BONDS

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

Section 1. Recitals.

1.01 Pursuant to Resolution No. 09-18866, adopted on September 14, 2009 and in accordance with the provisions of the American Recovery and Reinvestment Act of 2009 ("ARRA"); the policies and procedures established by the Department of Administration of the State of Montana (the "Department"); Internal Revenue Service Notice 2009-50; and Section 1400U-1(b) of the Internal Revenue Code of 1986, the Council designated the City as a recovery zone ("Recovery Zone").

1.02 Pursuant to Internal Revenue Service Notice 2009-50, the City was allocated \$26,831,000 of Recovery Zone Facility Bond authority and pursuant to the policies and procedures of the Department, Yellowstone County has allocated its \$9,973,000 of Recovery Zone Facility Bond authority to the City.

1.03 The City wishes to use its Recovery Zone Facility Bond authority in a manner that will preserve and create jobs and promote economic recovery in the City, increase the tax base, provide long term economic benefits to the citizens of the City and complement and enhance the City's goals and objectives of the urban renewal districts created by the City (the "Urban Renewal Districts").

1.04 The City wishes to establish the criteria that it will consider for the allocation of its Recovery Zone Facility authority to projects, and the issuance of Recovery Zone Facility Bonds.

Section 2. Nature and Purpose of Recovery Zone Facility Bond Financing.

2.01 Nature of Bonds. ARRA enables the City to issue Recovery Zone Facility Bonds and to pass along its ability to borrow money on a tax exempt basis for most types of private business activities located in the Recovery Zone. The Recovery Zone Facility Bonds will be issued by the City in accordance with the provisions of the Montana Economic Development Bond Act in Title 90, Chapter 5, Part 1 (the "Act") and applicable provisions of the Treasury Department. Under the Act, the City will issue the Recovery Zone Facility Bonds and loan the proceeds thereof (the "Loan") to the private borrower (the "Borrower"), who will enter into a loan agreement (the "Loan Agreement") whereby the Borrower agrees to repay the Loan. The City will assign an interest in the Loan Agreement to the purchaser of the Recovery Zone Facility Bonds, who may require a mortgage on the facility being financed and other security for the Loan. The Recovery Zone Facility Bonds will be special limited obligations of the City, payable solely from the Loan repayments of the Borrower and other security provided by the Borrower and will not give rise to any pecuniary obligation of the City. Neither the City's credit nor its taxing power will be pledged to the repayment of the Recovery Zone Facility Bonds. The Borrower shall be responsible for securing a purchaser for the Recovery Zone Facility Bonds. All Recovery Zone Facility Bonds must be issued by December 31, 2010.

2.02 Types of Eligible Projects. Recovery Zone Facility Bonds can be used for nongovernmental purposes that historically would not qualify for tax-exempt financing; 95% of proceeds (net of any reasonably required reserve funds) must be used for property in the Recovery Zone that is acquired, constructed, reconstructed or renovated after designation of the Recovery Zone. Recovery Zone Facility Bonds cannot be used for residential rental property, golf courses, country clubs, massage parlors, hot tub facilities, suntan facilities, racetrack/gambling facilities, or stores whose primary business is the sale of alcohol for consumption off-premise.

2.03 Application Procedure. Developers of eligible projects shall request an allocation of the Recovery Zone Facility Bond authority by filing a letter of application with the Financial Services Manager, which shall include the following information:

- (a) description of the project, including square footage and size of facility;
- (b) street address and legal description;
- (c) estimated costs of the project;
- (d) name and address of owner or developer of the project;

- (e) estimated date of commencement of project; and
- (f) the name, address, and contact person for the lender or purchaser of Recovery Zone Facility Bonds.

Section 3. Evaluation of Application and Criteria for Allocation of Authority.

3.01 Criteria. The City will take the following factors into consideration in allocating its Recovery Zone Bonds:

- (a) whether the project is in an Urban Renewal District or would otherwise enhance or enable the City to accomplish the goals and objectives of an Urban Renewal District;
- (b) whether the developer has sufficient financial resources to undertake the project and complete the closing of the Recovery Zone Facility Bond financing by December 31, 2010;
- (c) whether the developer has firm commitment from a lender to purchase the Recovery Zone Facility Bonds, and under what conditions;
- (d) the number of jobs created during construction of the project and the approximate level of pay and benefits for such jobs;
- (e) the number of long term jobs expected to be available after construction and the approximate level of pay and benefits for such jobs; and
- (f) the need for the project.

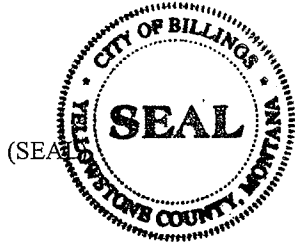
3.02 Public Hearing; Allocation; Status Report. Allocation of the Recovery Zone Facility Bond authority will be made by the City Council after a public hearing on the project as required by the Act and the Internal Revenue Code. As a condition of the allocation, the City will require monthly status reports on the project and the financing arrangements and the City may nullify the allocation if the Council determines that a particular project is not likely to successfully complete the financing by the deadline.

3.03 City Fees for Recovery Zone Facility Bonds. Recipients of Recovery Zone Facility Bond authority shall pay the same fees and charges as for all other industrial development revenue bonds issued under the Act.

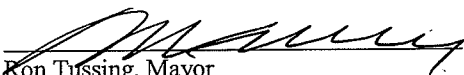
Section 4. Compliance with Wage and Hours Requirements; Montana Labor Preference. The Act requires that contracts for projects financed by Recovery Zone Facility Bonds issued under the Act must give preference to the employment of bona fide Montana residents if their qualifications are substantially equal to those of nonresidents. Contractors on Recovery Zone Facility Bond financed projects must agree to pay the standard prevailing wage rate in effect for the district in which the project is located.

Section 5. Effective Date. This Resolution shall become effective upon passage.

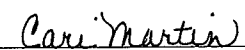
PASSED AND ADOPTED by the Billings City Council on the 26<sup>th</sup> of October, 2009.



THE CITY OF BILLINGS

  
Ron Tussing, Mayor

ATTEST:

  
Cari Martin, City Clerk