

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. 97-17228, entitled: "A RESOLUTION RELATING TO W.O. 97-02, #3 (NON TASK FORCE AREAS): THE 1997 MISCELLANEOUS CURB, GUTTER AND SIDEWALK PROGRAM; 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 AMENDING RESOLUTION NO. 97-17216" (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 **May 27, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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:

Regnier, Davis, Deisz, Farmer, Mayor Tooley, Michunovich,

Ohnstad, Stone, Larson; voted against the same: Elison

none; abstained from voting thereon: _____

_____ ; or were absent: Creighton

WITNESS my hand officially this 27th day of May, 1997.

Marita Herold
Marita Herold, CMC CITY CLERK

RESOLUTION NO. 97-17228

A RESOLUTION RELATING TO W.O. 97-02, #3 (Non Task Force Areas): THE 1997 MISCELLANEOUS CURB, GUTTER AND SIDEWALK PROGRAM; 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 **AND AMENDING RESOLUTION NO. 97-17216.**

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 **March 17, 1997**, adopted Resolution No. **97-17203** (the "Resolution of Intention"), pursuant to which this Council declared its intention to order in certain sidewalks, curb and gutter improvements, designated as W.O. 97-02, Contract #3(the "Project") of the City, under Montana Code Annotated, Title 7, Chapter 14, Part 41, as amended, for the purpose of financing the costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of sidewalk, curb and sidewalk, curb and gutter improvement bonds drawn on the Project (the "Bonds"), the creation and administration of the Project, and the funding of a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and mailed in all respects in accordance with law, and on **April 14, 1997**, this Council conducted a public hearing on the ordering in of the Project and the making of the Improvements.

Section 3. Order. This Council, on May 12, 1997, reconsidered ordering in the improvements to certain properties included in Resolution No. 97-17216. As part of that reconsideration, improvements along the frontage of the following properties were deleted from the work ordered in under said Resolution No. 97-17216.

2502 Yellowstone Avenue A-10307
2508 Yellowstone Avenue A-10308
2512 Yellowstone Avenue A-10309
2518 Yellowstone Avenue A-10310
2522 Yellowstone Avenue A-10311
2524 Yellowstone Avenue A-10312
2526 Yellowstone Avenue A-10313
2525 Yellowstone Avenue A-10409
2523 Yellowstone Avenue A-10410
2521 Yellowstone Avenue A-10411
2515 Yellowstone Avenue A-10412
2507 Yellowstone Avenue A-10414
2503 Yellowstone Avenue A-10415

Now then, it is hereby ordered that the following improvements shall continue to be constructed, reconstructed, repaired, or replaced:

See Exhibit "A-1) 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 listed and the owners of those properties 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 provision 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 **\$218,000** 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

RESOLUTION NO. 97- 17228

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.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this **27th** day of **May**, 1997.



THE CITY OF BILLINGS:

BY Charles F. Tooley
Charles F. Tooley
MAYOR

ATTEST:

BY Marita Herold
Marita Herold, CMC CITY CLERK

RE: W.O. 97-02, #3 (Non Task Force Areas): The 1997 Miscellaneous
Curb, Gutter & Sidewalk Program

1997 MISCELLANEOUS IMPROVEMENTS

W.O. 97-02, CONTRACT NO. 3 (NON-TASK FORCE)

EXHIBIT "A-1"

Sidewalk, Drive Approach, Curb & Gutter Program for 1997

A. SIDEWALK

- ▶ South side of Judicial Avenue (City Park frontage)
- ▶ West side of West Antelope Trail - Summerhill Subdivision, Block 4 between Lots #1 and #37.
- ▶ North side of 3rd Avenue North, between North 25th Street and North 26th Street.
- ▶ South side of 3rd Avenue between North 32nd Street and North 33rd Street.
- ▶ 412 19th Street West.
- ▶ 2511 Yellowstone Avenue

B. CURB & GUTTER, SIDEWALK, AND DRIVE APPROACHES

- ▶ South side of Belvedere Drive between 19th Street West and 20th Street West.
- ▶ 1640 Clark Avenue.
- ▶ All four (4) corners at intersection of 24th Street West and Broadwater Avenue.
- ▶ Both sides of 18th Street West from Broadwater Avenue to Miles Avenue.
- ▶ Both sides of Miles Avenue between Glen Drive and 17th Street West.
- ▶ Both sides of North 29th Street between 4th Avenue North and 9th Avenue North.
- ▶ Both sides of North 30th Street between 6th Avenue North and 9th Avenue North.

C. CURB & GUTTER AND SIDEWALK

- ▶ 3101 North Daffodil Drive.
- ▶ East side of 24th Street West between Avenue B and Avenue C.
- ▶ South side of 9th Avenue North between North 28th Street and North 31st Street.
- ▶ East side of North 30th Street between 4th Avenue North and 6th Avenue North.
- ▶ 1945 Avenue D

D. SIDEWALK, CURB & GUTTER, DRIVE APPROACHES AND ALLEY APPROACHES