

RESOLUTION NO. 10-18

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 783; CREATING THE DISTRICT FOR THE PURPOSE OF CONSTRUCTING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY'S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND

BE IT RESOLVED by the Board of County Commissioners (the "Board") of Yellowstone County, Montana (the "County"), as follows:

Section 1. Passage of Resolution of Intention. This Board, on January 26, 2010, adopted Resolution No. 10-06 (the "Resolution of Intention"), pursuant to which this Board declared its intention to create a rural special improvement district, designated as Rural Special Improvement District No. 783 of the County (the "District"), under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), for the purpose of financing the costs of the Improvements described therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund") and the establishment of a reserve account securing the Bonds in the District fund (the "Reserve Account").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published on January 29, 2010 and February 5, 2010, and mailed in all respects in accordance with the law, and on March 9, 2010, this Board conducted a public hearing on the creation of the District and the making of the Improvements. At the hearing, this Board heard and passed on all protests made during the thirty-two (32) day protest period after the first date of publication of the notice of passage of the Resolution of Intention (the "Protest Period"). The meeting of this Board at which this resolution was adopted is the first regular meeting of the Board following the expiration of the Protest Period.

Section 3. Protests. Within the Protest Period, no written protests were filed with the County Clerk and Recorder.

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period are hereby found to be insufficient to stop the creation of the District. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed, including, without limitation, the findings and determinations relating to the Revolving Fund and Reserve Account. As provided in the Resolution of Intention, after construction of the

Improvements as described in the Resolution of Intention, the ownership and responsibility for maintenance of the Improvements will be transferred by the County to the County Water District of Billings Heights.

PASSED AND ADOPTED by the Board of County Commissioners of Yellowstone County, Montana, this 12<sup>th</sup> day of March, 2010.

BOARD OF COUNTY COMMISSIONERS OF  
YELLOWSTONE COUNTY, MONTANA

  
Chair of the Board of County Commissioner

ATTEST:

  
County Clerk and Recorder

**YELLOWSTONE COUNTY  
DOCUMENT ROUTING SLIP & AGENDA REQUEST**

Title of Document RS10 783 - HOMESTEAD SUB WATERLINE

Document/Contract/Grant Agreement is: New  Renewal

ORIGINATING DEPARTMENT: FINANCE \*\*Copy Requested

Has originating department addressed the concerns listed below? \_\_\_\_\_

PURPOSE OF DOCUMENT: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date Needed/Agenda Date: \_\_\_\_\_ / \_\_\_\_\_

**DEPARTMENTS THAT NEED TO REVIEW DOCUMENT:**

**COUNTY ATTORNEY**

Receipt date: \_\_\_\_\_ Date out: \_\_\_\_\_ Reviewed by \_\_\_\_\_ \*\*Copy Requested

Comments \_\_\_\_\_

Prepared by Bond Counsel

**FINANCE**

Receipt date: \_\_\_\_\_ Date out: 1/22/10 Reviewed by (SD) \*\*Copy Requested

Comments \_\_\_\_\_

OK

**OTHER**

Receipt date: \_\_\_\_\_ Date out: \_\_\_\_\_ Reviewed by \_\_\_\_\_ \*\*Copy Requested

Comments \_\_\_\_\_

**OTHER**

Receipt date: \_\_\_\_\_ Date out: \_\_\_\_\_ Reviewed by \_\_\_\_\_ \*\*Copy Requested

Comments \_\_\_\_\_

**OTHER**

Receipt date: \_\_\_\_\_ Date out: \_\_\_\_\_ Reviewed by \_\_\_\_\_ \*\*Copy Requested

Comments \_\_\_\_\_

**\*\* Please check box if your department would like a copy after execution**

RESOLUTION NO. 10-06

RESOLUTION OF INTENTION TO CREATE  
RURAL IMPROVEMENT DISTRICT NO. 783

A RESOLUTION DECLARING IT TO BE THE INTENTION OF THE BOARD OF COUNTY COMMISSIONERS OF YELLOWSTONE COUNTY, MONTANA, TO CREATE A RURAL IMPROVEMENT DISTRICT NO 783 FOR THE PURPOSE OF CONSTRUCTING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY'S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND.

BE IT RESOLVED by the Board of County Commissioners of Yellowstone County (the "County"), Montana, as follows:

Section 1. Proposed Improvements: Intention to Create District. The County proposes to undertake certain water line improvements (the "Improvements") to specially benefit certain property on Longhorn Way located in the Homestead Subdivision of the County. The Improvements consist of design, engineering, and construction of a water line, as more particularly described in Section 5. The total estimated costs of the Improvements and costs incidental thereto are \$315,000. The costs of the Improvements are to be paid from the rural special improvement district bonds hereinafter described in as estimated total principal amount of \$315,000. It is the intention of this Board to create and establish in the County under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"), a rural special improvement district (the "District") for the purpose of financing the costs of the Improvements and paying costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District, the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund") and the establishment of a reserve account securing the Bonds in the District fund (the "Reserve Account"). The Bonds are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefited by the Improvements in an amount estimated to be not less than \$315,000.

Section 2. Number of District. The District, if the same shall be created and established, shall be known and designated as Rural Special Improvement District No. 783 of Yellowstone County, 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 by the legal description of the lots in the District as described on Exhibit C 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 Exhibits B and C hereto (which are hereby incorporated herein and made a part hereof).

Section 4. Benefited Property. The District and territory included within the limits and boundaries described in Section 3 and as shown on Exhibits A and C are hereby declared to be the rural improvement district and the territory which will benefit and be benefited by the Improvements and will be assessed for the costs of the Improvements as described in Section 1.

Section 5. General Character of the Improvements and Maintenance. The general character of the Improvements includes construction and connection of a new 8 inch water line of approximately 1,407 linear feet and the attendant valves and hydrants, asphalt restoration, annexation fees for the County Water District of Billings Heights, meters and plan review fees. After construction of the Improvements, ownership and responsibility for maintenance of the Improvements will be transferred to the County Water District of Billings Heights.

Section 6. Engineer and Estimated Cost. Blueline Engineering of Billings, Montana shall be the engineer for the District. The Engineer has estimated that the cost of the Improvements and contingency at \$251,293, including incidental costs, but not including Bond issuance costs or Bond administrative costs or Reserve or Revolving Fund contributions (as shown on Exhibit D hereto).

#### Section 7. Assessment Methods

7.1 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 benefiting the District shall be assessed against the property in the District benefited by such the Improvements, based on a combination of the methods of assessment described in Section 7-12-2151, MCA, as particularly applied and set forth in this Section 7.

7.2 Combination of Methods of Assessments. As authorized in Section 7-12-2151(d) MCA, each lot, tract or parcel in the District will be assessed equally for its equal share of the construction, engineering, meter and plan review fees. As authorized in Section 7-12-2151(a) MCA, the cost of the Heights Water District annexation fees are based on the square footage of each lot. The Bond costs and administrative fees are based on a combination of the above for each lot. The estimated assessments for each lot for the Improvements benefiting the District is shown on Exhibit B hereto.

7.3 Assessment Methodology Equitable and Consistent with Benefit. The Board hereby determines that the methods of assessment and the assessment of costs of the specific Improvements against the properties benefited thereby as prescribed in Section 7 are equitable and in proportion to and not exceeding the special benefits derived from the Improvements by the lots, tracts and parcels to be assessed therefore within the District.

Section 8. Payment of Assessments for Payment of Bonds. The special assessments for ~~the costs of the Improvements shall be payable over a term not exceeding twenty (20) years, each~~ in equal semiannual installments of principal, plus interest as allowed by law, or equal semiannual payments of principal and interest as allowed by law, as this Board shall prescribe in the resolution authorizing the issuance of the Bonds. Property owners have the right to prepay assessments as provided by law. The estimated total principal amount of special assessments for undertaking the Improvements against properties in the District is shown on the attached Exhibit

B and C. In the event the District is created and the Bonds are issued, the special assessments levied against property in the District will be stated as semiannual installments of principal and interest.

Section 9. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The County intends to issue Bonds in an estimated aggregate principal amount of \$315,000 in order to finance the costs of the Improvements and costs incidental thereto. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the District and such payment will be secured in part, by the Reserve Account. The Board further finds it is in the public interest, and in the best interest of the County and the District, to secure payment of principal of and interest on the Bonds by the pledge to utilize the Revolving Fund and hereby authorizes the County to enter into the undertakings and agreements authorized in Section 7-12-2185 in respect of the Bonds.

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

(a) Estimated Market Value of Parcels. The estimated market value of the lots ("Assessed Valuation") in the District as of October 19, 2009, as estimated by the Montana Department of Revenue for property tax purposes, is set forth in Exhibit C hereto. The special assessments to be levied under Section 7 against each lot, parcel or tract in the District is less than or equal to the increase in estimated market value of the lot, parcel or tract as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. Of the 12 assessable lots, 8 separate owners own one lot and two owners own two lots each.

(c) Other Special Assessments in the District. There is currently a RSID maintenance district assessing \$200 per year for road maintenance on these properties.

(d) Delinquencies. As of January 22, 2010, there were no delinquent property taxes against the properties in the District.

(e) The Public Benefit of the Improvements. The public benefit resulting from the Improvements will be the conservation of water and provision of clean water to County residents in the District.

(f) Newly Platted Subdivision. These improvements are not part of a newly platted subdivision.

(g) Other Factors. The County is establishing a 4% reserve in the estimated amount of \$12,608 to be deposited in the Reserve Account in the District Fund. This reserve will be utilized to fund any debt service deficiencies related to this District before resorting to the Revolving Fund. The County anticipates that it will assess simple interest at an annual rate equal to ½ of 1% per year plus the average interest rate payable on outstanding bonds of the District at the time the assessment is levied each fiscal year, as permitted under 7-12-2176, MCA.

(h) Petition. Over 60% of the lots in the District have petitioned the County for creation of the District.

Section 10. Reimbursement Expenditures.

10.1 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 County for project expenditures paid by the County prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the County 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.

10.2 Prior Expenditures. Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iii) 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 County before the date 60 days before the date of adoption of this resolution.

10.3 Declaration of Intent. The County reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregated principal amount of \$315,000 after the date of payment of all or a portion of the cost 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.

10.4 Budgetary Matters. As of the date hereto, there are no County 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 County's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

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10.5 Reimbursement Allocations. The County's Treasurer 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 County 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 County

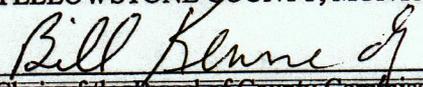
maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

Section 11. Public Hearing; Protests. At any time within thirty-two (32) days from and after the date of the first publication of the notice of the passage and approval of this resolution, any owner of 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 County Clerk and Recorder until 5:00 p.m., M.T., on the expiration date of said 32-day period (March 2, 2010), written protest against the proposed Improvements or against the creation of the District or both. The protest must describe the property in the District owned by the protestor, and the protest must be signed by all owners of the property. The owner of property created as a condominium that is entitled to protest under this part is collectively the owners of all units having an undivided ownership interest in the common elements of the condominium. An owner of property created as a condominium may protest against the proposed work or against the extent or creation of the district to be assessed, or both, only through a president, vice president, secretary, or treasurer of the condominium owners' association who timely presents to the county clerk a certified protest constituting an affirmative vote of the condominium owners' association in accordance with Section 7-12-2141, MCA. This Board will at its next regular meeting after the expiration of the thirty-two (32) days in which such protests in writing can be made and filed, proceed to hear all such protests so made and filed, including protests or comments from any taxpayer in Yellowstone County concerning the pledge of the Revolving Fund as security for the Bonds; which said regular meeting will be held on Tuesday, the 9th day of March, 2010, at 9:30 a.m., in the Commissioner's Board Room 403A of the Yellowstone County Courthouse, 217 North 27<sup>th</sup> Street, in Billings, Montana.

Section 12. Notice of Passage of Resolution of Intention. The County Clerk and Recorder 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 Gazette, a newspaper of general circulation in the County, on January 29, 2010 and February 5, 2010, 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 Board of County Commissioners of Yellowstone County, Montana this 26th day of January, 2010.

BOARD OF COUNTY COMMISSIONERS OF  
YELLOWSTONE COUNTY, MONTANA

  
Chair of the Board of County Commissioners

ATTEST:

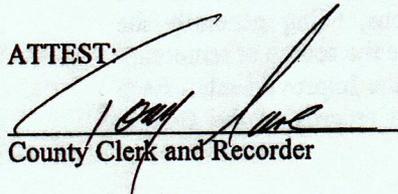
  
County Clerk and Recorder

EXHIBIT A

Proposed RSID 783

