

RESOLUTION NO. 1875

RESOLUTION MAKING CERTAIN PRELIMINARY FINDINGS, INCLUDING NECESSITY FINDINGS AND CALLING FOR A PUBLIC HEARING ON AN ORDINANCE TO ESTABLISH A TARGETED ECONOMIC DEVELOPMENT TAX INCREMENT FINANCING DISTRICT UNDER MONTANA CODE ANNOTATED TITLE 7, CHAPTER 15, PART 42, AND PROVIDING FOR THE PUBLICATION AND MAILING OF A NOTICE OF PUBLIC HEARING THEREFOR

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

WHEREAS, subject to the satisfaction of certain requirements contained in Montana Code Annotated Title 7, Chapter 15, Part 42, as amended (the "Act"), including Sections 7-15-4277 through 7-15-4280 of the Act, the City is authorized to adopt an ordinance (the "Ordinance") establishing a Targeted Economic Development District to assist in financing necessary infrastructure to encourage the attraction, growth, and retention of secondary value-adding industries and encourage the location and retention of value-adding projects in the State of Montana (the "State"); and

WHEREAS, it is proposed that the City establish a Targeted Economic Development District to be known as the "Shelby Industrial Park Targeted Economic Development Tax Increment Financing District" (the "TED District"), to be generally located in the area southeast of the intersection of U.S. Highway 2 and Packing Plant Road in the City as shown on Exhibit B to this Resolution, for the purpose of stimulating industrial growth by providing a financial mechanism to provide the necessary infrastructure support to encourage the growth of value-adding industries in the City; and

WHEREAS, the City previously formed its Shelby Industrial Tax Increment Financing District (the "Industrial District") pursuant to Ordinance No. 792, adopted November 17, 2008; and

WHEREAS, the City formed the Industrial District in order to provide a mechanism for financing the needed infrastructure improvements in the area of the Industrial District and the proposed TED District; and

WHEREAS, the State Legislature amended the Act in 2013 to provide that the boundaries of an industrial tax increment financing district cannot be amended without the approval of the Montana Department of Revenue and, furthermore, that a local government may not form a targeted economic development tax increment financing district that contains any property within an existing tax increment financing district; and

WHEREAS, the City, as a local government under the Act, may terminate the Industrial District with the consent of the Commissioner/Director of the Montana Department of Revenue and replace the Industrial District with the TED District if the provisions of the Act have been complied with by the City; and

WHEREAS, the City has revised its comprehensive Grow Policy since the formation of the Industrial District in 2008 with a new comprehensive Growth Policy adopted in 2012 (the "Growth Policy"); and

WHEREAS, the City has also revised its Capital Improvements Plan since the formation of the Industrial District in 2008 with a new Capital Improvements Plan adopted in 2013 (the "CIP Plan")

WHEREAS, the City's engineering firm, Kadrmaz, Lee & Jackson, Inc. (the "City Engineer") has done an extensive infrastructure review of the area located within the proposed TED District and found that the area of the proposed TED District is infrastructure deficient in various ways; and

WHEREAS, Section 7-15-4280 of the Act requires that the City adopt a resolution of necessity prior to exercising the powers provided in Montana Code Annotated, Title 7, Chapter 15, Part 43, as amended, relating to the financing of infrastructure improvements with tax increment bonds; and

WHEREAS, the City may hold a public hearing on the proposed ordinance to create the TED District; and

WHEREAS, a targeted economic development tax increment financing district must meet the following requirements:

- (a) must consist of a continuous area with an accurately described boundary that is large enough to host a diversified tenant base of multiple independent tenants;
- (b) must be zoned for use in accordance with the area growth policy;
- (c) may not include any property located within an existing tax increment financing district;
- (d) must, prior to its creation, be found to be deficient in infrastructure improvements as stated in a resolution of necessity adopted under Section 7-15-4280 of the Act;
- (e) Must, prior to its creation, have in place a comprehensive development plan adopted by the local governments that ensures that the district can host a diversified tenant base of multiple independent tenants; and
- (f) May not be designed to serve the needs of a single district tenant or group or nonindependent tenants.

NOW, THEREFORE, BE IT RESOLVED By the City Council of the City of Shelby, Montana that:

1. City staff, the City Engineer, and Kennedy & Graven, Chartered, P.C., as special counsel to the City, are authorized and directed to prepare the necessary reports, the comprehensive development plan, and the ordinance relating to the creation of the TED District. The Mayor and Kennedy & Graven, Chartered, P.C. shall engage the Commissioner/Director of the Montana Department of Revenue regarding receipt of his approval for the termination of the Industrial District and the formation of the TED District.

2. Based upon the information set forth in the CIP Plan, the area of the proposed TED District is deficient in infrastructure and infrastructure improvement in the proposed boundaries of the TED District is necessary for the welfare of the residents of the City. The City has proposed the development of the TED District with industrial development and improvements to the infrastructure are necessary in such area to provide for improved water service, wastewater service, road improvements, storm sewer and energy improvements.

3. The City hereby makes the following preliminary findings with respect to the area of the TED District:

(a) The TED District area is continuous with an accurately described boundary as set forth in Exhibit B hereto;

(b) The area of the TED District is zoned in accordance with the provisions of the City's Growth Policy;

(c) Upon the termination of the Industrial District by the City, after the approval of such termination by the Commissioner/Director of the Montana Department of Revenue, the area of the TED District will not include any property within an existing tax increment financing district;

(d) As set forth in paragraph 2 above, the area of the TED District is deficient in infrastructure improvements;

(e) The City will adopt a comprehensive development plan to ensure that the TED District can host a diversified tenant base of multiple independent tenants; and


(f) The proposed TED District is not designed to serve the needs of a single tenant or a group of nonindependent tenants.

4. The Act requires that prior to the adoption of the Ordinance and establishment of the proposed District the City Council shall give notice and hold a public hearing on the proposed formation of the TED District. The City Council therefore calls for (i) the first reading of the Ordinance to be held during a regularly scheduled City Council meeting on November 4, 2013, on or after 7:30 p.m., and (ii) the second reading of the Ordinance and the public hearing on creation of the District (the "Hearing") to be held during a regularly scheduled City Council meeting on November 18, 2013, on or after 7:30 p.m. The Hearing and the readings of the Ordinance shall be held in the Council Chambers at City Hall, 112 First Street South in the City.

5. Kennedy & Graven, Chartered and the City Clerk is authorized and directed to prepare a notice for publication, in substantially the form attached as Exhibit A (the "Notice"), in the *Shelby Promoter*, a newspaper of general circulation in the City, to be published on October 28, 2013 and November 4, 2013, all in accordance with the requirements of Montana law. The publication of the Notice will occur at least once a week for two consecutive weeks prior to the date set for the Hearing, the last such publication being at least 10 days before the date of the Hearing.

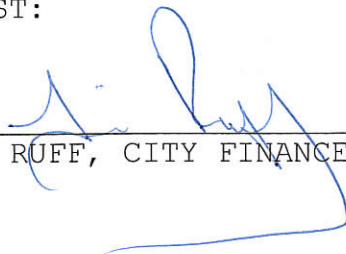
6. The City Clerk is authorized and directed to prepare the Notice for mailing to the persons whose names and addresses appear on the Toole County Treasurer's tax roll as the owners, reputed owners, or purchasers under contracts for deed, of property located within the boundaries of the proposed District. The Notice must be mailed not less than 10 days prior to the Hearing.

PASSED AND ADOPTED by the city council of the City of Shelby, Montana, this 21st day of October, 2013.



LARRY J. BONDERUD, MAYOR

ATTEST:



TERI RUFF, CITY FINANCE OFFICER

I, Teri Ruff, City Finance Officer for the City of Shelby, Montana, hereby certify that on the 22nd day of October 2013, copies of the above resolution were posted as follows: (1) Lobby of City Hall, (2) Lobby of Toole County Courthouse, and (3) Lobby of Toole County Sheriff's Office.



Teri Ruff, City Finance Officer

EXHIBIT A

FORM OF NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING

**GIVING NOTICE OF A PUBLIC
HEARING ON AN ORDINANCE ESTABLISHING A
TARGETED ECONOMIC DEVELOPMENT TAX INCREMENT FINANCING DISTRICT
UNDER MONTANA CODE ANNOTATED
TITLE 7, CHAPTER 15, PART 42**

CITY OF SHELBY, MONTANA

NOTICE IS HEREBY GIVEN that the City Council of the City of Shelby, Montana (the "City") will meet on November 18, 2013, on or after 7:30 p.m. in the Council Chambers at City Hall, 112 First Street South in the City, for the purpose of holding a public hearing regarding the creation of a proposed Targeted Economic Development Tax Increment Financing District known as the Shelby Industrial Park-Targeted Economic Development Tax Increment Financing District (the "District"), to be generally located in the area southeast of the intersection of U.S. Highway 2 and Packing Plant Road in the City, for the purposes of stimulating industrial growth by providing a financial mechanism to provide necessary infrastructure support. The City is authorized by Title 7, Chapter 15, Part 42, Montana Code Annotated, to adopt an ordinance establishing the District to assist in financing necessary industrial infrastructure to encourage the attraction, growth, and retention of secondary value-adding industries.

Copies of the proposed Ordinance (including a description of the boundaries of the District) may be obtained from the City Clerk at City Hall, 112 First Street South in the City, or by telephone at (406) 434-5222.

Any person wishing to express an opinion on the matters to be considered at the public hearing will be heard orally or in writing.

Dated: October 21, 2013.

BY ORDER OF THE CITY COUNCIL
OF THE CITY OF SHELBY,
MONTANA

/s/ Teri Ruff
City Finance Officer

EXHIBIT B

PROPOSED BOUNDARIES OF THE TED DISTRICT

City of Shelby Ordinance no. 792

Legal Description Outer Boundary

Ordinance no. 792 is located in a portion of Sections 26, 27, 28, 33, 34 and 35 T. 32 N., R. 2 W. & a portion of Sections 2 and 3 T. 31 N., R. 2 W. P.M. Montana, Toole County, City of Shelby and also excepting therefrom COS #342470, PARCEL 1 & 2 of LEASE #45.307, TRACTS 1 & 2 of COS #272138 and the Shelby Stockyard as shown on COS #94-7, and the 200 foot wide Burlington Northern Sante Fe Railroad Right-of-Way, P.M. Montana, Toole County more particularly described as follows:

Beginning at the SW Corner of Section 28, T32N, R2W:

1)thence S 00°01'55" W, 30.00 feet; 2)thence S 89°58'05" E, 2606.50 feet; 3)thence S 89°53'42" E, 2643.26 feet; 4)thence N 89°59'13" E, 2646.18 feet; 5) thence S 89°58'52" E, 186.48 feet; 6)thence S 00°01'35" E, 1258.64 feet; 7)thence S 89°58'18" E, 1036.05 feet; 8)thence S 00°04'31" E, 1279.52 feet; 9)thence S 23°50'13" E, 4410.24 feet; 10)thence N 89°55'15" E, 1119.84 feet; 11) thence N 60°51'37" E, 200.00 feet; 12)thence N 89°58'30" E, 988.76 feet; 13)thence N 00°00'10" W, 5811.11 feet to the southerly right-of-way of highway 2; 14)thence N 54°25'52" W, 1626.66 feet along said right-of-way; 15)thence N 35°09'41" E, 15.07 feet along said right-of-way;16)thence N 54°25'30" W, 1637.98 feet along said right-of-way;17) thence S 02°33'42" W, 17.97 feet along said right-of-way; 18)thence N 54°13'36" W, 3919.59 feet along said right-of-way; 19)thence S 36°41'12" E, 866.17 feet along the southwesterly right-of-way of BNSF railroad; 20)thence S 29°00'41" E, 150.67 feet along said railroad right-of-way; 21)thence N 89°20'25" W, 55.51 feet to the center quarter corner of sec. 27, T32N, R2W; 22)thence S 00°02'04" E, 1345.59 feet to the center-south 1/16 corner of said sec. 27; 23)thence S 89°53'35" W, 1322.69 feet to the southwest 1/16 corner of said sec. 27; 24)thence S 00°04'57" E, 1288.62 feet along the southwest 1/16 line of said sec. 27; 25)thence N 89°57'05" W, 6573.81 feet; 26)thence S 00°01'55" W, 30.00 feet to the point of beginning. The Outer Boundary area contains 760.92 acres more or less, the area of the tracts excepting therefrom, contain 84.30 acres more or less. The TOTAL AREA of Ordinance no. 792 is 676.62 acres more or less. (see Exhibit "A")

