

ORDINANCE NO. 2014-06-033

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON AMENDING CHAPTER 14.02 OF THE BELLINGHAM MUNICIPAL CODE REGARDING LATECOMER AGREEMENTS FOR STREET AND UTILITY SYSTEM IMPROVEMENTS

WHEREAS, Chapter 14.02 of the Bellingham Municipal Code ("BMC") establishes a uniform methodology and process for the administration of latecomer agreements in circumstances where a developer uses private funds to construct public street and/or utility system improvements and desires to be partially reimbursed by property owners who subsequently connect to or use the improvements; and

WHEREAS, the City of Bellingham operates its latecomer program under the authority granted in Chapters 35.91 and 35.72 Revised Code of Washington ("RCW"); and

WHEREAS, the Washington State Legislature recently modified RCW 35.91 in several key areas; and

WHEREAS, BMC 14.02 should be revised to adopt the new state law requirements and to improve the administration, consistency and interpretability of its provisions.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM DOES HEREBY ORDAIN THAT:

Chapter 14.02 of the Bellingham Municipal Code is amended as follows:

Chapter 14.02

~~LATECOMER AGREEMENTS – STREET AND UTILITY STREET, DRAINAGE, WATER AND SEWER IMPROVEMENTS – ASSESSMENT REIMBURSEMENT~~

14.02.010 Purpose.

To establish a uniform methodology and process for the administration of latecomer agreements reimbursement contracts applied for after January 1, 1998, for developers in circumstances where a developer uses private funds to construct a public utility and/or street and/or utility system improvement(s) and desires to be partially reimbursed/compensated by property owners who subsequently connect to or use the improvements but who did not contribute to the original cost of benefited by the improvements.

The provisions of this chapter are in addition to and intended to supplement any other requirements contained elsewhere in the Bellingham Municipal Code.

This chapter is also intended to implement RCW 35.91 and 35.72.

14.02.020 Definitions.

“Adjacent” means abutting on public roads, streets, right-of-way or easements in which street system improvements are installed or directly connecting to street system improvements through an interest in real property such as an easement or license.

“Assessment” means an equitable pro rata charge to be paid by an owner of property within the assessment reimbursement area for the cost of private construction of public street and/or utility system improvements made pursuant to a public facilities construction agreement.

“Assessment reimbursement area” means that area which includes all parcels of real property adjacent to street system improvements or likely to require connection to or service by utility system improvements constructed by a developer.

“Construction interest” means the sum of money to be added to the direct construction cost and reimbursed to the developer for the use of the developer’s ~~monies~~ moneys during the construction term. The interest rate shall be one percent above the Federal Reserve Bank prime loan rate published most recently before the date of the public facilities construction agreement. Interest accrual begins on the date of execution of the public facilities construction agreement and will continue throughout the construction term.

Construction interest shall be computed utilizing the two-thirds rule; i.e., direct cost of construction x construction interest rate divided by 365 x the construction term expressed in days x 0.67 = construction interest.

“Construction term” means that period of time between the date of execution of the public facilities construction agreement and the date of acceptance of the project by the city or the construction completion date as set forth in the public facilities construction agreement, whichever occurs first.

“Cost of construction” is the sum of the direct construction costs incurred to construct the street and/or utility system improvements plus indirect costs which are limited to the city’s latecomer administrative fees (BMC 14.02.16040), construction interest (~~“Construction interest” definition of this section~~), and developer administrative costs (~~“Developer administrative costs” definition of this section~~). “Direct construction costs” include but are not limited to all related design services, engineering, surveying, legal services, bonding costs, environment mitigation, relocation and/or new construction of private utilities as required by the city (i.e., power, telephone, cable and gas), relocation and/or installation of street lights, relocation and/or installation of signage, acquisition of right-of-way and/or easements, government agency fees, testing services, inspection, plan review and approval, labor, materials, equipment rental, and contractor and/or subcontractor fees or charges.

“Developer” means the individual or entity that contracts with the city for the construction of street and/or utility system improvements, where such improvements are a prerequisite requirement for further development of real property owned by such entity or individual.

“Developer administrative costs” means all indirect costs incurred by the developer in the creation and execution of a public facilities construction agreement and managing the project; such as office supplies, mailings, clerical services, telephone expenses, accounting expenses, project oversight, and the like. Administrative costs shall not exceed three percent of all direct construction costs.

~~“Developer reimbursement agreement” means a written contract between the city and one or more developers providing partial reimbursement for cost of construction of street system improvements and/or utility system improvements to the developer by owners of property who are likely to utilize the improvements and who did not contribute to the original cost of construction.~~

“Direct connection” means a service connection, to be owned and maintained by the property owner and not the city, from existing or new utility improvements based on the following criteria:

A. Water system direct connections are single and dual water service taps as defined in “Water Distribution System,” Bellingham Development Guidelines and Improvement Standards, as currently enacted or as may be hereafter modified;

B. Sewer system direct connections include side sewer (service) connections as defined in “Sanitary Sewer System,” Section 5, Bellingham Development Guidelines and Improvement Standards, as currently enacted or as may be hereafter modified;

C. Storm sewer system direct connections are hereby defined as, but not limited to, tight line, down spout, and roof leader service connections to storm sewer mains for the conveyance of site-specific storm sewer.

“Latecomer agreement” means a written contract between the city and one or more developers providing partial reimbursement of the cost of construction of street and/or utility system improvements to the developer by owners of property who connect to or use the improvements but who did not contribute to the original cost of construction.

“Public facilities construction agreement” means any agreement entered into by an individual or entity with the city for the purpose of constructing public improvements that are required by the city to be constructed ~~by the city~~ as a prerequisite to the development of real property.

“Street system improvements” mean public street and alley improvements made in existing or subsequently dedicated or granted rights-of-way or easements and any improvements associated therewith including but not limited to such things as acquisition of right-of-way and/or easements, design, engineering, surveying, inspection, grading, paving, installation of curbs, gutters, storm drainage, pedestrian facilities, street lighting, bike lanes, and traffic control devices, relocation and/or construction of private utilities as required by the city (i.e., power, telephone, cable and gas), relocation and/or construction of street lights, traffic control devices, signage, and other similar improvements.

“Utility system improvements” mean public water, sewer and storm drainage system improvements including but not limited to the acquisition of right-of-way and/or easements, design, engineering, surveying, inspection, testing, connection fees, and installation of improvements as required by the city and includes but is not limited to the following:

A. Water system improvements including but not limited to such things as treatment facilities, reservoirs, wells, mains, valves, fire hydrants, telemetry systems, pumping stations, and pressure reducing stations;

B. Sewer system improvements including but not limited to such things as treatment plants, gravity mains, lift stations, force mains, and telemetry systems;

C. Storm sewer system improvements including but not limited to such things as water quality structures and systems, detention and retention facilities, and stormwater collection and conveyance facilities.

14.02.030 Applicability.

This chapter is intended to apply to all street system improvements and all utility system improvements (subject to the limitation that as to street system improvements this chapter's applicability is limited to those improvements defined in Chapter 35.72 RCW) where the construction of such improvements is the result of a city of Bellingham ordinance or ordinances that require such improvements as a prerequisite to property development. Street system improvements constructed in order to comply with the city of Bellingham subdivision code, zoning code, comprehensive plan and Chapter 13.08 BMC, are hereby declared to be prerequisites to further property development for the purpose of RCW 35.72.010 this chapter.

14.02.040 Application for ~~developer reimbursement~~ latecomer agreement.

A. Any developer using private funds to construct street system improvements and/or utility system improvements in the city ~~or within the city's utility service area,~~ may apply to the city for a ~~developer reimbursement~~ latecomer agreement in order to recover a pro rata share of the costs of construction from other property owners that will later connect to or use ~~derive a benefit from~~ the street and/or utility system improvements made by developer.

B. In addition to the latecomer application, the applicant must apply for and obtain a public facilities construction permit and agreement and must meet all of the design standards and requirements applicable to street and utility improvements contained in the city's ordinances.

CB. The application for a ~~developer reimbursement~~ latecomer agreement shall be made before the street and/or utility system improvements proposed for construction are approved by the city through the issuance of a public facilities construction permit; provided that for improvements approved under a public facilities construction permit issued prior to July 9, 2014, the application for a latecomer agreement may be made within 30 days after the date that such street and/or utility system completed improvements have been accepted by the city. Acceptance by the city shall mean, for purposes of this section, the date the public facilities are conveyed to the city by a deed of conveyance or other equivalent written document.

Application shall be made on forms prepared by the public works department and shall be accompanied by the city application base fee set forth in BMC 14.02.17039. The application shall contain the following information which shall be approved by a state of Washington licensed engineer:

1. A legal description of the developer's property.
2. A legal description of the properties within the developer's proposed assessment reimbursement area together with the name and address of the owners of each property as shown in the records of the assessor's office of Whatcom County.
3. Vicinity maps, stamped by a state of Washington licensed civil engineer or surveyor, depicting the developer's property, the proposed improvements, and the proposed assessment reimbursement area, of developer's property.
4. ~~The developer's proposed assessment reimbursement area and general location of the street and/or utility system improvements.~~
45. Statement from Itemized cost date approved by a state of Washington licensed contractor or civil engineer containing an itemized estimate of for the total projected cost of construction.
56. The developer's proposed allocation of the cost of construction to the individual properties within the proposed assessment reimbursement area and the method used for such allocation.

DE. Within 30 days of the public works department receiving the application for a developer reimbursement latecomer agreement, the public works department will provide the applicant written notice of whether the application is complete and, if incomplete, what must be done for the application to be considered complete. The applicant will have no more than 30 days from the date of the written notice to respond and provide the information required to complete the application or, if the applicant cannot submit the required information within the 30-day period, the applicant shall provide the city a written explanation of why they cannot provide the information within the designated time period and a date that the requested information will be submitted. In its discretion, the public works department may grant the applicant an extension of not more than 60 days to submit the required information. If the applicant fails to meet the foregoing time frame, the public works department may, in its discretion, reject the application as untimely.

D. ~~Within 30 days of receiving the complete application, the city will prepare and record with the county auditor's office an application summary. The application summary shall contain at least the following: project description, name of developer, legal descriptions for each of the properties within the assessment reimbursement area together with a statement of intent to collect the proposed allocation of costs of construction to each property. The application summary shall include the following language:~~

~~This application summary shall have no further force or effect nor shall it constitute an enforceable obligation against any of the properties described herein upon the recording of a Developer Reimbursement Agreement made as to the property herein described.~~

~~This application summary shall have no further force or effect nor shall it constitute an enforceable obligation against any of the properties described herein after one year from the date of recording, provided the effective term of the application summary may be extended by filing an extension executed by the developer and approved in writing by the Public Works Department.~~

E. The public works director ~~may~~shall establish policies and procedures for processing applications and complying with the requirements of this chapter.

14.02.050 Application – Review

A. The public works director or his designee shall review all applications and shall approve the application if following criteria are met:

1. The application is timely, complete and the application fee has been paid; and

2. The city's ordinances require the proposed improvements to be constructed as a prerequisite to further property development; and

3. The proposed improvements fall within the definition of street and/or utility system improvements as those terms are defined in this chapter; and

4. The proposed improvements are consistent with the city's design standards, development regulations, comprehensive plan, utility plan, and/or transportation plan.

B. In the event any of the above criteria are not met, the public works director or his designee shall either condition approval as necessary in order for the application to conform to such criteria or deny the application. The final determination of the public works director or his designee shall be in writing.

14.02.060050 Preliminary determinations.

Upon approval of a latecomer application, the public works department shall formulate a preliminary assessment reimbursement area and preliminary assessment amount for each real property included in the preliminary assessment reimbursement area benefited by the street and/or utility system improvements based on the following factors and provide the same to the developer:

A. The likelihood that benefited property will be developed within the period of time that the latecomer agreement will be effective, 15 years from the date of recording of the developer reimbursement agreement.

B. The likelihood that at the time of development of the benefited property such property will not be required to install similar street and/or utility system improvements because they were already installed by the developer.

C. For street system improvements, that benefited parcels are adjacent to such street system improvements.

D. For utility system improvements, the likelihood ~~(1)~~ that such improvements will be tapped into or used (including not only direct connections but also connections to laterals or branches connecting thereto) by properties within the assessment reimbursement area, ~~and that such improvements do not constitute mainline extensions to be owned and maintained by the city, as such extensions are not defined as direct connections or (2) that such properties will receive a special benefit from the utility system improvements such as, but not limited to pump stations, sewer lift stations, and additional utility pipe depth to accommodate future utility expansion.~~

E. An equitable allocation of the cost of construction among the properties within the assessment reimbursement area, so that each pays for benefits attributable to those improvements. The method or methods used to calculate the allocation of the assessment may be either front footage, number of units, square footage, ~~or may be the zone and termini method, or other recognized equitable method, as determined by the city, s reasonably calculated to equitably allocate the assessment.~~

14.02.070060 Preliminary determination notice.

A. The preliminary assessment reimbursement area and the preliminary assessment amounts formulated by the public works department shall be sent by certified mail to the developer and the property owners of record within the preliminary assessment reimbursement area, ~~in accordance with Chapter 35.72 RCW, as from time to time amended.~~

B. The developer applicant or any property owner within the preliminary assessment reimbursement area may, in writing within 20 days of mailing the notice, request a hearing to be held before the hearing examiner pursuant to BMC 2.56.050 to contest the preliminary assessment reimbursement area and/or preliminary assessment amounts. Notice of such hearing shall be given to the developer and all property owners within the preliminary assessment reimbursement area and the hearing before the hearing examiner shall be conducted as soon as is reasonably practical. The procedure contained in Chapter 2.56 BMC shall govern the hearing. After the hearing, the hearing examiner shall develop a report with findings of fact, conclusions of law and recommendations to the city council regarding establishing the assessment reimbursement area and the assessment for each property within the assessment reimbursement area. The city council shall consider the record developed before the hearing examiner and the hearing examiner's report. City council may allow public comment on the hearing examiner's report and, if a majority of the council finds the record insufficient, may add to the record. After considering the record, the hearing examiner's report and public comment thereon, if any, city council may adopt or reject the hearing

examiner's recommendations in whole or in part or it may render its own findings and conclusions. City council is the final authority to establish the assessment reimbursement area and the assessment for each property within the assessment reimbursement area. The city council's determination of the assessment reimbursement area and the assessment shall be as provided by BMC 1.26.010 and shall be determinative and final.

C. In the event no written request for a hearing is received within the allotted time, as required, the determination of the public works department shall be final.

14.02.080070 ~~Developer reimbursement~~Latecomer agreement.

Based upon the preliminary assessment reimbursement area and the preliminary assessment, if no hearing is requested, or based upon the city council's determination of the assessment reimbursement area and assessment if a hearing is requested, the public works department shall prepare and give to the applicant a ~~developer reimbursement~~latecomer agreement. The developer shall execute the latecomer agreement and return it to the public works department for city signatures. A separate latecomer agreement shall be executed for each of the following categories of improvement, as applicable: water system, sewer system, stormwater system, and street system.

14.02.090080 Recording. —Effective date—Payment of assessment—Lien for nonpayment.

A. The provisions of the latecomer agreement shall not become effective as to any owner of real estate not a party thereto until it is recorded with the Whatcom County auditor, with notice to title of each property within the assessment reimbursement area. The city shall record the latecomer agreement with the Whatcom County auditor within 30 days of final execution of the latecomer agreement; provided that the developer shall have an independent duty to review the auditor's records to confirm that the latecomer agreement has been properly and timely recorded.~~The developer's right to assessments shall relate back to the date the developer records an application summary pursuant to BMC 14.02.040(D).~~

B. ~~Any property described in the recorded application summary shall be subject to the assessment after it has been approved by the city pursuant to this chapter.~~

C. ~~The developer reimbursement agreement shall be recorded by the city with the Whatcom County auditor within 30 days of the agreement's final execution.~~

D. ~~The city shall not issue a building permit or similar development permit or approval nor grant permission to use water or sewer service unless the city has received full payment of the assessment, including interest, applicable to the property connecting to or using the street and/or utility system improvements constructed by developer, provided, if the developer reimbursement agreement's validity is being challenged, the city reserves the right to issue a permit, approval or permission without liability or prejudice to the city and without prejudicing the developer's rights or remedies under this chapter or otherwise at law or in equity.~~

~~E. If improvements are made to a property adjacent to a street improvement or if a property connects to a utility system improvement without payment of an assessment otherwise due, the amount of such assessment shall be a binding obligation upon the owner of record (and successors) of the affected property.~~

~~F. Failure by a property owner to pay the assessment due within 180 days of notice to this effect shall entitle the developer to foreclose against the property in the same manner as a mortgage, and shall entitle the developer to recover reasonable costs and attorney fees.~~

14.02.100 Construction – Final Costs – Conveyance.

A. After the latecomer agreement has been signed by all parties and all necessary permits and approvals, including a public facilities construction permit, have been obtained, the applicant shall construct the improvements and, upon completion, request final inspection and acceptance of the improvements by the city, subject to any required obligation to repair defects. All construction, inspection and testing shall conform to the city's design and construction standards.

B. Within 120 days of completion of construction, the developer shall provide the city with documentation of the actual costs of the improvements and a certification by the applicant that all of such costs have been paid. The final cost of the improvements shall be reviewed against the preliminary assessments established by the city. Upon a showing of good cause, the agreement shall be modified to include cost overruns up to a maximum of 10 percent. In the event that actual costs are less than the public works director's estimate by 10 percent or more, the public works director shall recalculate the charges, reducing them accordingly. For any revisions under this section, the public works director shall cause a revised list of charges to be recorded with the Whatcom County auditor, with a notice to title on each property within the assessment reimbursement area.

C. After the requirements of subsections A and B above have been satisfied, the developer shall provide the city with an appropriate deed of conveyance or other equivalent written document transferring ownership of the improvements to the city, together with any easements needed to ensure the city's right of access for maintenance of the improvements. Title to the improvements shall be conveyed to the city clear of all encumbrances.

D. No connection to, or other use of, the improvements will be allowed or permitted until the city has officially accepted the construction and title to the improvements has been conveyed to the city.

14.02.110 Defective Work.

The developer shall be responsible for all work found to be defective within one year after the date of acceptance of the improvements by the city. Chapters 15.08, 15.12, and 13.08 contain provisions for the public works director to require a performance bond for the improvements.

14.02.120 Payment of Latecomer Assessments – Remittance to Developer.

A. Upon recording, the latecomer agreement and assessment shall be binding upon all property owners of record within the assessment reimbursement area. If an owner applies to the city to connect to or use the improvements installed by the developer, the city shall require that owner to pay his or her pro rata share of the cost of the improvements as set forth in the latecomer agreement. Assessments shall be paid to the city in one lump sum, including interest through the date of payment.

B. The city will pay over to the developer the amounts due within 60 days of receipt.

C. When the assessment for any property has been paid in full, the public works director or his designee shall record a certification of payment that will release the property from the latecomer agreement.

D. The latecomer charge shall be in addition to the usual and ordinary charges, including connection charges, system development charges, and any other fees or charges which must be paid by persons applying for city services.

E. The public works director or his designee have the authority to issue building permits to owners of properties located within the assessment reimbursement area without collecting latecomer assessments if the building permit application indicates to the city's satisfaction that the property will be developed without connecting to or using the latecomer improvements.

14.02.130090 Segregation.

The public works department shall, upon the request of any property owner within the assessment reimbursement area, segregate the assessment. The segregation shall be based upon the same factors applied when the assessments were originally established. The property owner seeking segregation of the assessment shall pay an administrative fee to the city of Bellingham based upon a segregation fee schedule to be established by the public works department.

14.02.140100 Term of developer reimbursement agreements.

A. For street system improvements, ~~Each developer reimbursement~~ latecomer agreement shall be valid for a period of ~~not to exceed~~ 15 years from the date of its recording.

B. For utility system improvements, each latecomer agreement shall be valid for a period of 20 years from the date of its recording.

14.02.150110 Removal of unauthorized connections or taps.

Whenever any tap or connection is made into any utility improvement without payment of the assessment being made as required by this chapter, the public works department is authorized to remove and disconnect, or cause to be removed and disconnected, such unauthorized tap or connection including all connecting tile or pipe located in the right-of-way and to dispose of such unauthorized material without liability. The owner of the property where the

unauthorized connection is located shall be liable for all costs and expenses of any type incurred to remove, disconnect, and dispose of the unauthorized tap or connection.

14.02.160120 Interest on assessment.

Each assessment established in the ~~developer reimbursement~~latecomer agreement shall bear interest from the date of recording of the ~~developer reimbursement~~latecomer agreement at an interest rate fixed at the federal reserve rate for a two-year treasury note, as determined on the date of recording the ~~development reimbursement~~latecomer agreement.

14.02.170130 City administrative fees.

The developer shall pay the following fees:

A. Application Fee. The city shall charge for ~~processing developer reimbursement agreements the base~~ an application fee of \$800.00 for each latecomer agreement, \$300.00 for utility system improvements and \$450.00 for street system improvements.

B. Administrative Fee. In addition, the city shall charge a fee for administering the latecomer process equal to ~~To the base fee shall be added~~ one percent of the estimated cost of construction.

~~CB.~~ Recording Fee. Further, for every separate parcel of property within the applicant's proposed assessment reimbursement area, the city shall charge a recording fee of \$250.00~~\$150.00 per parcel, shall be added to the base fee established pursuant to the above schedule.~~

~~DC.~~ The ~~base application fee and the parcel recording fee~~ shall be adjusted annually to reflect inflationary costs, ~~increase or decrease.~~ The adjusted fees shall be calculated by adjusting upwards or downwards in accordance with the change in the Consumer Price Index for all Urban Consumers, Seattle-Tacoma-Bremerton, Washington based on the report released prior to January 1 of each year. ENR Construction Cost Index for Seattle, WA, in January 1997 = \$6,021.81. The fees established by this formula shall be rounded up or down to the next \$10.00.

~~ED.~~ The city ~~latecomer base application fee~~ shall be paid upon application for a ~~developer reimbursement~~latecomer agreement with all remaining fees paid prior to, and as a condition of, the city's mailing of the preliminary determination notices, pursuant to BMC 14.02.060(A).

14.02.140 Payment of developer reimbursement charge.

Each assessment shall be due in its entirety upon connection to or use of a street and/or utility system improvement by a property subject to an assessment, and shall be paid to the city in one lump sum including interest until date of payment. The city will pay over to developer the amounts due within 60 days of receipt.

~~When the assessment for any property has been paid in full, the public works director shall record a certification of payment that will release such property from the developer reimbursement agreement.~~

14.02.180150 Appeal.

With the exception of determination of the preliminary assessment reimbursement area and preliminary assessment as provided by BMC 14.02.070060(B), a developer may appeal the interpretation and/or decisions of the public works department concerning any aspect of this chapter to the hearing examiner as provided by BMC 2.56.050(B)(7).

14.02.190160 Enforcement of latecomer obligations.

A. In processing and imposing obligations in this chapter for reimbursement of developers, the city in no way guarantees payment of assessments by latecomers, or enforceability of assessments, or enforceability of the ~~developer reimbursement~~latecomer agreement, or the amount(s) thereof against such persons or property. Nor will the offices or finances of the city be used for enforcement or collection of latecomer obligations beyond those duties specifically undertaken by the city herein. ~~It shall be the obligations of a developer to take whatever authorized means are available to enforce payment of latecomer assessments; and developers are hereby authorized to take such actions.~~ The city shall not be responsible for locating any beneficiary or survivor entitled to any benefits by or through a developer reimbursement agreement.

B. Every two years from the date the latecomer agreement is executed a developer entitled to reimbursement under this chapter shall provide the public works department with information regarding the current contact name, address, and telephone number of the person, company, or partnership that originally entered into the latecomer agreement. If the developer fails to comply with the notification requirements of this subsection within 60 days of the specified time, then the city may collect any reimbursement funds owed to the developer under the latecomer agreement. Such funds must be deposited in the capital fund of the city. Any funds collected under this chapter that are unclaimed by developers after three years from the expiration of the developer reimbursement agreement shall be returned to the parties making payment to the city, if they may be reasonably found and minus any reasonable administrative processing costs. Any undeliverable funds shall inure to the benefit of the city.

14.02.200170 Alternative financing methodsCity participation in assessment reimbursement.

A. As an alternative to financing street and/or utility improvements under this chapter solely by developers, the city may join in the financing of the improvements and may be reimbursed in the same manner as developers who participate in funding the improvements. If the city elects to finance street or utility improvements under this chapter, it shall have the same rights to reimbursement as developers who make contributions as authorized under this chapter and shall be entitled to a pro rata share of the reimbursement based on the respective contribution of the developer and the municipality.

B. As another alternative for financing street improvements under this chapter, the city may create an assessment reimbursement area on its own initiative, without the participation of a private developer, finance the costs of the street improvements, and become the sole beneficiary of the reimbursements that are contributed.

The city may participate in financing street improvement projects pursuant to BMC 13.10.050

14.02.210 Limitation of Liability.

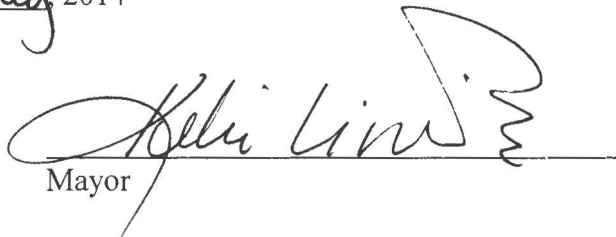
Nothing in this chapter is intended to create a private right of action for damages against the city for failing to comply with the requirements of this Chapter. The city may not be held liable for failure to collect a latecomer assessment unless the failure was willful or intentional.

PASSED by the Council this 23rd day of June, 2014.



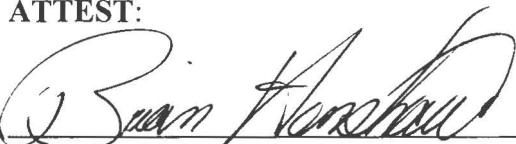
Council President

APPROVED by me this 14th day of July 2014



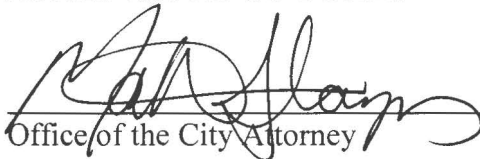
Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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