

RESOLUTION NO. 96-17087

RESOLUTION RELATING TO \$758,000 SPECIAL
SIDEWALK, CURB, GUTTER AND ALLEY APPROACH
BONDS, SERIES 1996; AUTHORIZING THE ISSUANCE
AND CALLING FOR THE PUBLIC SALE THEREOF AND
AUTHORIZING THE PLEDGE OF THE REVOLVING
FUND TO THE SECURITY THEREOF

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

Section 1. Recitals.

(a) The City is authorized pursuant to Section 7-14-4109, M.C.A. to order the construction or reconstruction of sidewalks, curbs or gutters in front of any lot or parcel of land and may order alley approaches constructed or replaced adjacent to any lot or parcel of land within the City. By Resolution Nos. 96-17083 and 96-17084 adopted March 25, 1996 (the "Orders"), the Council ordered in certain sidewalks, curbs, gutters and alley approaches which were described in Exhibit A to the respective resolutions. The Orders were duly entered in the minutes of the Council and set forth the names of the streets along which sidewalks, curbs or gutters are to be constructed or along which the alley approaches are to be constructed or replaced. As provided in the Orders and in accordance with Section 7-14-4109, M.C.A., written notice of the Orders was given to the owners or agents of owners of lots or parcels of land against which the costs of the proposed improvements were to be assessed. Upon the expiration of the 30-day notice period in the Orders, the City determined which of the proposed improvements have been or will be constructed by the owners of the adjacent property and which of the proposed improvements will be constructed by the City. The improvements to be constructed by the City (the "Improvements") are described in Exhibit A attached hereto. The total estimated costs of the Improvements to be constructed by the City are \$758,000, including such incidental costs and a deposit to the City's Special Improvement District Revolving Fund (as hereinafter defined the "Revolving Fund"). The City is authorized to pay the costs of constructing the Improvements by the issuance of special warrants (the Special Sidewalk, Curb, Gutter and Alley Approach Warrants) drawn against a fund to be known as the Special Sidewalk, Curb, Gutter and Alley Approach Fund and to secure such warrants by the City revolving fund created pursuant to Section 7-12-4221, M.C.A. (the "Revolving Fund"). The costs of the Improvements are to be paid from the proceeds of Special Sidewalk, Curb, Gutter and Alley Approach Warrants, Series 1996A, hereinafter referred to as Special Sidewalk, Curb, Gutter and Alley Approach Bonds (the "Bonds"), which are to be payable primarily from special assessments to be levied against property in the District, which property will be specially benefitted by the Improvements in an amount not less than \$758,000.

(b) The City is authorized by Montana Code Annotated, Section 7-12-4204(1) to sell the Bonds at a price less than the principal amount thereof, but including

interest thereon to the date of delivery, if this Council determines that such sale is in the best interests of the District and the City.

(c) It is necessary that the Bonds be issued and sold in an aggregate principal amount of \$758,000 to finance the costs of the Improvements, including incidental costs, described in Subsection (a). The costs of the Improvements are currently estimated, as follows:

Engineering/ Administration	\$ 63,051
Construction	630,519
Revolving Fund deposit	37,900
Bond discount	<u>26,530</u>
Total	\$758,000

Section 2. Determination of Public Interest in Allowing Bond Discount.

Pursuant to the authority described in Section 1, this Council hereby determines to fix the minimum price for the Bonds at \$731,470, plus interest accrued thereon to the date of delivery. Such minimum bid will enable bidders to bid more efficiently for the Bonds by permitting them to submit their bids based on actual market conditions without adjusting the interest rates thereon to provide compensation for their purchase of the Bonds. This procedure will facilitate the sale of the Bonds at the lowest interest rates, which is in the best interests of the property owners whose property will be assessed for the Improvements and the City.

Section 3. Findings and Determination To Pledge the Revolving Fund. In Resolution Numbers 96-17074 and 96-17075 adopted on February 26, 1996, this Council found it to be in the public interest, and in the best interest of the City and the property owners whose property will be assessed for the Improvements, to secure payment of principal of and interest on the Bonds by the Revolving Fund and authorized the City to enter into the undertakings and agreements authorized in the Act in respect of the Bonds, based on the factors required to be considered under Section 7-12-4225(4) of the Act. Those findings and determinations were ratified and confirmed in the resolutions adopted by this Council on March 25, 1996, ordering in the Improvements, and are hereby ratified and confirmed. It is hereby covenanted and recited that the City has the power under the Act to pledge the Revolving Fund to payment of the principal of and interest on the Bonds.

Section 4. Terms of the Bonds. This Council hereby authorizes the issuance and sale of the Bonds, to be denominated "Special Sidewalk, Curb, Gutter and Alley Approach Bonds, Series 1996," of the City in the aggregate principal amount of \$758,000 (the "Bonds") for the purpose of financing the Improvements. The Bonds shall be dated, as originally issued, as of June 1, 1996, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 1997, at a rate or rates designated by the successful bidder at public sale and approved by this

Council. If issued as serial bonds, the Bonds shall mature on July 1 in each of the following years and amounts:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1997	\$53,000	2003	\$65,000
1998	55,000	2004	65,000
1999	65,000	2005	65,000
2000	65,000	2006	65,000
2001	65,000	2007	65,000
2002	65,000	2008	65,000

If issued as amortization bonds, the Bonds will be issued as a single bond or divided into several bonds, as the Council may determine at the time of the sale, and the principal of and interest on the Bonds shall be payable semiannually in equal payments on each January 1 and July 1, commencing January 1, 1997 and concluding July 1, 2008, unless the Bonds are earlier redeemed. Serial bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities; provided that one Bond with a stated maturity in 1997 shall be in the principal amount of \$3,000.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor and the City Clerk. The Bonds shall be secured by the Revolving Fund.

Section 5. Public Sale. The Bonds shall be sold at a public competitive sale which is hereby called and shall be held at a regular meeting of this Council on May 13, 1996, at 7:30 p.m. The City will receive sealed bids for the Bonds in accordance with the notice of sale hereinafter prescribed. The City Clerk is hereby authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106, in *The Billings Times*, once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published and mailed in substantially the form set forth as Exhibit A to this resolution (which is hereby incorporated herein and made a part hereof) and this Council hereby adopts the terms and conditions set forth in such notice of sale as the terms and conditions of the sale of the Bonds.

Section 6. Official Statement. The Director of Finance and other officers of the City are hereby authorized and directed to prepare on behalf of the City an official statement to be distributed to potential purchasers of the Bonds. Such official statement shall contain the terms and conditions of sale set forth in the notice of sale adopted in Section 4 and such other information as shall be advisable and necessary to describe accurately the City and the security for, and terms and conditions of, the Bonds.

Section 7. Continuing Disclosure; Exemption.

Bidders and other participating underwriters in the primary offering of the Bonds need not comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (the "Rule"), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000. Consequently, the City will not enter into any undertaking to provide continuing disclosure of any kind with respect to the Bonds.

Passed by the City Council of the City of Billings, Montana, this 22nd day of April, 1996.

Charles F. Tealy
Mayor

Attest: Beverly Mudgett
City Clerk
Deputy City Clerk