

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 24-11187, entitled: **A RESOLUTION RELATING TO THE 2024 CITY MISSING SIDEWALK PROJECT; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE 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 REGULATIONS UNDER THE INTERNAL REVENUE CODE** (the "Resolution") was duly adopted by the City Council of the City at a meeting on **March 11, 2024**; 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Council members voted in favor thereof: Shaw, Gulick, Owen, Joy, Kennedy, Aspenlieder, Tidswell, Boyett, Rupsis and Mayor Cole; voted against the same: N/A ; abstained from voting thereon: N/A ; or were absent: Neese .

WITNESS my hand officially this 11th day of March, 2024.


Denise R. Bohlman, City Clerk



RESOLUTION 24-11187

A RESOLUTION RELATING TO THE 2024 CITY MISSING SIDEWALK PROJECT; ORDERING IN CERTAIN LOCAL IMPROVEMENTS AND DECLARING IT TO BE THE INTENTION OF THE CITY COUNCIL TO FINANCE 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 REGULATIONS UNDER THE INTERNAL REVENUE CODE.

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

Section 1. Authorization. Certain curbs, gutters, sidewalks, drive approaches, alley approaches and/or appurtenant features or a combination thereof in certain locations in the City have deteriorated, settled and cracked, or none exist, and the safety and convenience of the public require installation, construction, reconstruction, repair and/or replacement thereof. Pursuant to M.C.A. 7-14-4109, the Council is authorized to order the installation, construction, reconstruction and/or replacements of certain curbs, gutters, sidewalks, drive approaches and/or appurtenant features or a combination thereof (the "Improvements") in certain locations in the City and without creation of a special improvement district.

Section 2. Ordering of Improvements. It is hereby ordered that the Improvements, consisting of the construction and installation of curbs, gutters, sidewalks, drive approaches and appurtenant features as described on Exhibit A hereto, be installed, constructed, reconstructed, repaired and/or replaced.

Section 3. Estimated Costs of the Improvements. The City estimates that the costs of the Improvements are \$164,000.00. Costs of the Improvements include costs of the design, engineering, construction and installation of the Improvements, costs of funding a deposit to the City's Special Improvement District Revolving Fund (the "Revolving Fund"), costs associated with the sale of the Bonds (as hereinafter defined), and all other incidental costs as described below:

Construction Costs	\$126,095.25
City Engineering (Project Management)	13,224.75
Finance	1,200.00
Revolving Fund	8,200.00
Bond Discount	3,280.00
<u>Issuance Costs</u>	<u>12,000.00</u>
<u>Total Assessed Costs</u>	<u>\$164,000.00</u>

Section 4. Property to be Assessed. The properties which are adjacent to the Improvements will be assessed for costs of the Improvements as shown on Exhibit B hereto. The cost to be assessed against each property will vary depending upon the actual construction that is required adjacent to each such property.

Section 5. Property Owner Option to Construct Improvements. Notice of passage of this Resolution shall be mailed to all affected property owners. Each such owner will have thirty (30) days from the date of said notice in which to install the Improvements with respect to its property at its own expense. In the event that any owner does not install the Improvements with respect to its property, the City will install such Improvements and will assess the costs of the Improvements against such property.

Section 6. Payment for Improvements. Costs of the Improvements (unless paid directly by the affected property owner) are to be paid from the proceeds of Sidewalk, Curb, and Gutter Improvement Bonds (the "Bonds") in an aggregate principal amount not to exceed \$164,000.00.

Section 7. Bond Financing; Pledge of Revolving Fund; Findings and Determinations. The Bonds will be repaid from the assessments for costs of the Improvements, together with interest thereon calculated pursuant to M.C.A. 7-12-4189, to be levied against the properties to be assessed for the Improvements. Assessments for the costs of the Improvements, together with interest thereon, shall be payable over a term not exceeding 12 years, each in equal semiannual installments as this Council shall prescribe in the resolution authorizing the issuance of the Bonds. Principal of and interest on the Bonds will be paid from such assessments.

After the Bonds are issued, all property owners to be levied for the Improvements shall have the right to prepay assessments as provided by law.

This Council further finds that it is in the public interest, and in the best interest of the City and the properties to be assessed for the Improvements, to secure payment of principal of and interest on the Bonds by the Revolving Fund and hereby authorizes the City to enter into the undertakings and agreements authorized in Section 7-12-4225 in respect of the Bonds.

In determining to authorize the issuance of the Bonds and the pledge of the Revolving Fund therefor, this Council has taken into consideration the following factors:

(a) Estimated Market Value of Parcels. The estimated market value of the properties to be assessed for the Improvements as of the date of adoption of this resolution, as estimated by the County Assessor, ranges from \$286,100 to \$601,900 and is set forth in Exhibit B. The estimated average market value of the properties to be assessed for the Improvements is \$386,356 and the median market value of the properties to be assessed for the Improvements is \$373,750. The special assessments to be levied against each property listed on Exhibit B hereto are less than the increase in estimated value of the properties as a result of the construction of the Improvements.

(b) Diversity of Property Ownership. There are a total of 18 properties to be assessed for the Improvements and all of such properties are owned by separate owners.

(c) Comparison of Special Assessments, Property Taxes and Market Value. Based on an analysis of the aggregate amount of the proposed assessments, any outstanding assessments (whether or not delinquent), and any delinquent property taxes (as well as any known industrial development bonds theretofore issued and secured by a mortgage against a property to be assessed for the Improvements) against each property to be assessed for the Improvements in comparison to the estimated market value of such property after the Improvements, the City concludes that, overall, the estimated market value of the properties to be assessed for the Improvements exceeds the sum of the proposed assessments, outstanding assessments and delinquent property taxes, and is set forth in Exhibit B hereto.

(d) Delinquencies. An analysis of the amount of delinquencies in the payment of outstanding assessments or property taxes levied against the properties to be assessed for the Improvements is set forth in Exhibit B hereto, which analysis shows that of 18 properties, 0 properties were delinquent.

(e) Public Benefit of the Improvements. The Improvements are required for the safety and convenience of the public. Pursuant to the City's Subdivision and Site Development Ordinances, and under City Council policies, the cost of installation of new sidewalk, curb, gutter, and drive approaches is to be borne by the adjacent property owners.

8.1 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 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.

8.2 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.

8.3 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 \$164,000.00 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.

8.4 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.

8.5 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 temporary financing used by the City to make prior payment of the costs of the Improvements. Each allocation shall be evidence 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 11th of March, 2024.



CITY OF BILLINGS:

BY: William A. Cole
William A. Cole, Mayor

ATTEST:

BY: Denise R. Bohlman
Denise R. Bohlman, City Clerk

COUNCIL ACTION	APP 10-0
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RES 24-11187	
MAR 11 2024	
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CITY CLERK	

Item 1. I.

City Council Regular

Date: 03/11/2024
 Title: WO 24-02: Missing Sidewalk Program - Resolution Ordering Improvements
 Presented by: Debi Meling
 Department: Public Works
 Presentation: No
 Legal Review: Yes
 Project Number: N/A

RECOMMENDATION

Staff recommends that Council approve a resolution ordering improvements identified in the 2024 Missing Sidewalk Program.

BACKGROUND (Consistency with Adopted Plans and Policies, if applicable)

The City has an annual concrete program to make improvements addressing tripping hazards, drainage problems, property owner requests, complaints of concrete issues, and other miscellaneous concrete work. The annual program is split into three separate projects. The first project, "Sidewalk Tripper Repair", corrects concrete tripping hazards that can be repaired by grinding. The second project, "Small Concrete Replacement", primarily includes tripping hazards unable to be repaired by grinding that are corrected by replacing the concrete. The third project is the "Missing Sidewalk" project, that is the subject of this council action.

The Missing Sidewalk project is focused on installing sidewalk in areas that are missing pedestrian facilities. This project is in accordance with State law (MCA 7-14-4109) and City Resolution 18-10719 that allow the City Council to order certain improvements such as sidewalks, curbs, or gutters to be constructed without the creation of a special improvement district (SID). City staff identified and prioritized areas of missing sidewalk along arterial streets, collector streets, school routes (as shown in the Safe Routes to School study), or in high pedestrian areas for inclusion in this program. The streets that are missing sidewalk include Claim Jumper Lane from Babcock Boulevard to Nutter Boulevard; Lyman Avenue from 22nd Street West to Poly Drive Elementary School; and Lyman Avenue from Elizabeth Street to Poly Drive Elementary School. Both streets have been identified within the Safe Routes to School studies and Lyman Avenue has had citizen concerns promoting safe routes to school. The missing sidewalks are proposed in combination with associated ADA improvements at street crossings. Staff communicated with adjacent residents through correspondence in November 2023 describing the proposed project and again in February 2024 with estimated proposed assessments.

Based on City Resolution 18-10719, the property owners are responsible to pay for sidewalk on their addressed side and drive approaches on both addressed and non-addressed sides. The City is responsible to pay for curb and gutter replacement, sidewalk on non-addressed sides of properties, and ADA improvements at corners and on sidewalks that are in good condition, but were constructed before ADA requirements were in place. The estimated assessments for the properties are shown in Exhibit B of the Resolution Ordering Improvements as attached.

ALTERNATIVES

The Council may:

- Approve the Resolution ordering construction of the improvements; or
- Approve a subset of streets within the Resolution ordering construction of the improvements; or
- Not approve the Resolution ordering construction of the improvements. If the Council does not approve the Resolution, the property owners cannot be assessed and the completion of missing sidewalk will be delayed because there is no other current source of funding.

FISCAL EFFECTS

The project is funded through Gas Tax funds budgeted and direct property assessments. The assessments included in the resolution are in the amount of \$164,000 (\$126,095.25 construction and \$37,904.75 bond/engineering cost). Gas Tax funds in the amount of \$345,784.75 comprise the remainder of the project costs totalling \$509,784.75.

Attachments

Resolution Ordering Improvements

Exhibit A to Resolution Ordering Improvements
Exhibit B to Resolution Ordering Improvements
Resolution 18-10719 Sidewalk Curb and Gutter Policy
Missing Sidewalk Map

Exhibit A
2024 Missing Sidewalk

Tax Code	Address	Work to be performed
A09235	2301 BRENTWOOD LN	184' sidewalk, 54' curb & gutter, 1 approach, 1 telespar sign, 2 ADA
A10201	2445 LYMAN AVE	167' sidewalk, 41' curb & gutter, 1 telespar sign, 1 ADA
A12896	2219 LYMAN AVE	150' sidewalk, 24' curb & gutter, 1 valley gutter, 1 approach, 2 bush removals, 2 ADA
A12909	2205 LYMAN AVE	119' sidewalk, 25' curb & gutter, 1 ADA
A13992	2615 LYMAN AVE	143' sidewalk, 60' curb and gutter, 1 approach, 1 telespar sign, 2 ADA
A20924	1350 EASY ST	105' sidewalk, 37' curb & gutter, 1 ADA
A20934	1361 EASY ST	100' sidewalk, 18' curb & gutter, 1 ADA
A20936	1385 HARDROCK LN	65' sidewalk, 18' curb & gutter, 1 ADA
A20988	1291 CLAIM JUMPER LN	102' sidewalk, 1 approach, 22' curb & gutter,
A20989	1281 CLAIM JUMPER LN	72' sidewalk,
A20990	1273 CLAIM JUMPER LN	57' sidewalk
A20991	1265 CLAIM JUMPER LN	64' sidewalk, 1 tree removal
A20992	1257 CLAIM JUMPER LN	83' sidewalk,
A20993	1249 CLAIM JUMPER LN	64' sidewalk, relocate planter next to driveway
A20994	1241 CLAIM JUMPER LN	71' sidewalk
A20995	1231 CLAIM JUMPER LN	44' sidewalk
A20996	1221 CLAIM JUMPER LN	120' sidewalk, 20' curb & gutter, 1 ADA
A21063	1211 CLAIM JUMPER LN	120' sidewalk, 37' curb & gutter, 1 ADA

Exhibit B

2024 Missing Sidewalk

Tax Code	SID #	SID Pay-off (A)	Delinquent (B)	Assessment (C)	A + B + C	Market Value
A09235				\$5,644.62	\$5,644.62	\$361,400.00
A10201				\$14,475.72	\$14,475.72	\$361,500.00
A12896				\$13,168.62	\$13,168.62	\$431,600.00
A12909				\$10,632.44	\$10,632.44	\$394,100.00
A13992				\$13,476.21	\$13,476.21	\$286,100.00
A20924				\$10,412.96	\$10,412.96	\$382,100.00
A20934				\$9,917.11	\$9,917.11	\$601,900.00
A20936				\$6,446.12	\$6,446.12	\$364,800.00
A20988				\$14,869.16	\$14,869.16	\$411,600.00
A20989				\$6,644.46	\$6,644.46	\$287,400.00
A20990				\$5,156.89	\$5,156.89	\$355,200.00
A20991				\$6,346.95	\$6,346.95	\$342,300.00
A20992				\$8,231.20	\$8,231.20	\$355,500.00
A20993				\$6,346.95	\$6,346.95	\$365,400.00
A20994				\$7,041.14	\$7,041.14	\$443,500.00
A20995				\$4,363.53	\$4,363.53	\$415,900.00
A20996				\$10,412.96	\$10,412.96	\$399,800.00
A21063				\$10,412.96	\$10,412.96	\$394,300.00
Average				\$9,111.00	\$9,111.00	\$386,356.00
Median				\$9,074.00	\$9,074.00	\$373,750.00
Low				\$4,363.53	\$4,363.53	\$286,100.00
High				\$14,869.00	\$14,869.00	\$601,900.00

RESOLUTION 18-10719

A RESOLUTION REPEALING 99-17447 AND 04-18137 AND ADOPTING THE CITY OF BILLINGS POLICY FOR CONSTRUCTION AND REPAIR OF CURB, GUTTER AND SIDEWALKS

WHEREAS, the City of Billings desires to construct and maintain a safe and efficient street network, including the installation and maintenance of curb, gutter, and sidewalk, and

WHEREAS, the safety of pedestrians is a concern properly addressed by the City of Billings, and

WHEREAS, streets within the City of Billings not previously constructed to a full maintainable standard, including the installation of curb, gutter, and sidewalk should be upgraded on an ongoing basis, and

WHEREAS, curb, gutter, and sidewalk improvements, once installed, need to be subject to a regular maintenance program;

WHEREAS, for the purpose of this resolution, residential properties are defined as lots or parcels with single family or duplex dwelling units on it. Non-residential properties are defined as lots or parcels with commercial buildings on it and lots or parcels with 3 or more residential dwelling units on it.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Installation of New or Missing Curb, Gutter, and Sidewalk Improvements in Established Neighborhoods

For this program, curb, gutter, and sidewalk, together with or without corresponding street improvements are completed within those areas of the city where the work has not previously been addressed.

1. The City Engineer's office shall periodically recommend infill improvements to the City Council based on one or more of the following:
 - a. Citizen request.
 - b. Staff recommendations.
 - c. Coordination with other projects.
 - d. Along school walking routes.
 - e. Other public interest.
2. Improvements are to be assessed to fronting property owners.

3. For residential corner lots, improvements along the addressed side of the lot and private property specific improvements (i.e. drive approaches) along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.
4. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

Repair and Maintenance of Existing Curb, Gutter and Sidewalk Improvements

These projects provide for the ongoing maintenance of curb, gutter and sidewalk previously constructed. The general policy for repair and maintenance programs is as follows:

1. The City Engineer's office shall periodically recommend repair and maintenance programs based upon:
 - a. Complaints.
 - b. Staff recommendations.
 - c. Property owner requests.
2. The City Engineer's office has developed a policy statement for defective sidewalk, curb, and gutter and driveways which shall be used as a baseline for the inventory of work recommended for repair, followed by discussions with individual property owners.
3. The following construction costs are assessed to the fronting property owners as follows:
 - a. Sidewalk repair or replacement.
 - b. Landscaping necessary for sidewalk repair or replacement.
 - c. Tree removal necessary to repair sidewalk.
 - d. Drive approaches and driveway repair or replacement.
 - e. Adjacent asphalt to assessed improvements
4. Curb and gutter repair or replacement, storm drain improvements, and adjacent asphalt will be paid for by the City of Billings.
5. For residential corner lots, improvements along the addressed side of the lot and drive approaches along the non-addressed side serving the property will be assessed to the property owner. All other improvements along the non-addressed side of the lot will be paid by the City.

6. For non-residential corner lots, improvements along both sides will be assessed to the property owner.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 14th day of May 2018.



ATTEST:

By: Toni Keehner
Toni Keehner, Deputy City Clerk

CITY OF BILLINGS

By: William A. Cole
William A. Cole, Mayor

Missing Sidewalk Map

Lyman Avenue

Poly Drive Elementary School



★ ADA Ramps only

Claim Jumper Lane

