

RESOLUTION NO. **03-17947**

RESOLUTION RELATING TO W.O. 96-08, 2000 SCHOOL ROUTE SIDEWALK PROGRAM; MAKING CERTAIN FINDINGS WITH RESPECT TO THE PLEDGE OF THE REVOLVING FUND TO THE SECURITY THEREOF

BE IT RESOLVED by the City Council (the “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 No. 00-17643, adopted December 11, 2000 (the “Resolution of Intention”), the Council set forth its intention to order in certain sidewalks, curbs, gutters and alley approaches and after a public hearing and by Resolution No. 01-17654, adopted January 8, 2001 (the “Resolution Ordering Improvements”), ordered in certain sidewalks, curbs, gutters and alley approaches described in the Resolution Ordering Improvements. The Resolution of Intention and the Resolution Ordering Improvements (collectively, the “Resolutions”) were duly entered in the minutes of the Council and set forth the names of the streets along which sidewalks, curbs or gutters were to be constructed or along which the alley approaches were to be constructed or replaced (the “Project”). As provided in the Resolution of Intention and in accordance with Section 7-14-4109, M.C.A., written notice of the Resolution of Intention 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 Resolution of Intention, the City determined which of the proposed improvements had been or would be constructed by the owners of the adjacent property and which of the proposed improvements would be constructed by the City. The improvements constructed by the City (the “Improvements”) are described in Exhibit A attached hereto. The total estimated costs of the Improvements constructed by the City are \$5,000, 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 sidewalk, curb, gutter and alley approach bonds and to secure such bonds by the City revolving fund created pursuant to Section 7-12-4221, M.C.A. (the “Revolving Fund”). A portion of the costs of Improvements are to be paid from the proceeds of special sidewalk, curb, gutter and alley approach bonds proposed to be issued in 2003 (the “Bonds”), which are to be payable primarily from special assessments to be levied against property which will be specially benefitted by the Improvements in an amount not less than \$5,000.

Section 2. Findings and Determination To Pledge the Revolving Fund. The City is authorized to secure payment of principal of and interest on the Bonds by the Revolving Fund and is authorized 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.

Section 3. Method of Financing; Pledge of Revolving Fund; Findings and Determinations. The City will issue Bonds in 2003 in order to finance the costs of the Improvements along with other certain sidewalk, curb, gutter and alley approach improvements to be undertaken by the City. Principal of and interest on the Bonds will be paid from special assessments levied against the property in the Project. This Council further finds it is in the public interest, and in the best interest of the City and the Project, 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 to the Bonds.

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

(a) **Estimated Market Value of Parcels.** The estimated total market value of the lots, parcels, or tracts in the Project, as of the date of adoption of the Resolution of Intention, as estimated by the County Assessor, was \$2,431,310. The average market value is \$110,514, with a high of \$197,600, a low of \$22,610, and median value of \$104,500. The special assessments to be levied against each lot, parcel, or tract are less than the increase in the estimated market value of the properties as a result of the construction of the improvements.

(b) **Diversity of Property Ownership.** For the 22 total lots, parcels, or tracts in the Project, there are 21 separate owners. Given the diversity of the ownership, it is unlikely that financial difficulties would arise that would require a loan to be made from the Revolving Fund. One owner, Brenda Morgan Potts and Clifford Alert Potts, owns two (2) parcels. All other parcels are under separate individual ownership.

(c) **Comparison of Special Assessments, Property Taxes and Market Value.** Currently, there are no SID's being levied against parcels in the Project area.

(d) **Delinquencies.** For tax years 1995 through 1999, one parcel was delinquent. This represents a 4.6% delinquency rate within the Project area. This rate is below the average delinquency rate for the City.

(e) **The Public Benefit of the Improvements.** The subject sections of various City streets are identified as priority school walking routes in the School Sidewalk Improvements Study. This study was previously adopted by the City Council. The main purpose of these improvements is to provide a safe walking surface and area for children walking to and from school. Under current City policy, 50% of the landscaping costs to match the new improvements shall be borne by the adjoining property owners. City funding sources will fund 50% of the costs of new sidewalk installation and the costs of the installation of new curb, gutter, drive approaches, and street restoration. The remaining costs of new sidewalk installation shall be funded by CTEP (Community Transportation Enhancement Funding) funding.

Section 4. Public Hearing. The City Clerk is hereby directed to publish notice of the public hearing, which hearing will be held Monday, February 10, at 6:30 p.m., in the Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana, at which

the City Council will conduct a public hearing concerning the Project and all interested parties will be allowed to testify. The City Council will also consider all written comments submitted to the City Clerk prior to the hearing or submitted to the Council during the hearing.

Passed by the City Council of the City of Billings, Montana, this 27th day of January, 2003.

Mayor

Attest:

City Clerk

(SEAL)

EXHIBIT A

THE IMPROVEMENTS

Description

The Bonds will be issued to pay a portion of the costs of engineering, reconstructing and installing certain local improvements to benefit certain properties in the City described below consisting of various sidewalk, curb, gutter and alley approach improvements. The City Council has ordered in the installation of sidewalks along both sides of the following streets:

Curb, Gutter, Sidewalk and Street Construction

- North and south sides of Rimrock Road between East MacDonald Drive and Arvin Road