

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 the resolution, entitled: "RESOLUTION RELATING TO CITY OF BILLINGS STORM SEWER GROSS REVENUE BONDS; AUTHORIZING THE ISSUANCE OF BONDS TO REFUND OUTSTANDING SERIES 1993 AND SERIES 1994 BONDS; AND AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE OF STORM SEWER GROSS REVENUE REFUNDING BONDS, SERIES 2003, IN THE ESTIMATED PRINCIPAL AMOUNT OF \$7,100,000" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council of the City at a regular meeting on May 12, 2003, and 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_; voted against the same: \_\_\_\_\_

\_\_\_\_\_; abstained from voting thereon: \_\_\_\_\_

\_\_\_\_\_; or were absent: \_\_\_\_\_.

WITNESS my hand officially this 12th day of May, 2003.

\_\_\_\_\_  
City Clerk

(SEAL)

## RESOLUTION NO. 03-17979

RESOLUTION RELATING TO CITY OF BILLINGS STORM SEWER GROSS REVENUE BONDS; AUTHORIZING THE ISSUANCE OF BONDS TO REFUND OUTSTANDING SERIES 1993 AND SERIES 1994 BONDS; AND AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE OF STORM SEWER GROSS REVENUE REFUNDING BONDS, SERIES 2003, IN THE ESTIMATED PRINCIPAL AMOUNT OF \$7,100,000

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

### Section 1. Authorization and Recitals.

1.01 Authorization. Under the provisions of Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the "Act"), the City is authorized to issue and sell its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of a storm sewer system and to refund its revenue bonds issued for such purpose; provided that the bonds and the interest thereon are to be payable solely out of the net income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by the undertaking, and are not to create any obligation for the payment of which taxes may be levied except to pay for services provided by such system to the City. The City has established a storm sewer system within the boundaries of the City (the "System"). Pursuant to this authorization and Resolution No. 93-16649, adopted on May 24, 1993 (the "1993 Resolution"), the City issued and sold its Storm Sewer Gross Revenue Refunding Bonds, Series 1993, dated, as originally issued, as of May 15, 1993 (the "Series 1993 Bonds"), in the aggregate principal amount of \$8,825,000 to refund the City's \$9,400,000 Storm Sewer Gross Revenue Bonds, Series 1989A, dated, as originally issued, as of September 1, 1989 (the "Series 1989A Bonds") issued to finance improvements and additions to the System, then outstanding in the aggregate principal amount of \$8,750,000. Pursuant to the 1993 Resolution and Resolution No. 94-16889, adopted October 24, 1994 (the "1994 Resolution"), the City issued and sold its Storm Sewer Gross Revenue Bonds, Series 1994, dated, as originally issued, as of November 1, 1994 (the "Series 1994 Bonds") in the aggregate principal amount of \$3,200,000. The Series 1993 Bonds and Series 1994 Bonds are currently outstanding in the aggregate principal amounts of \$5,110,000 and \$2,415,000, respectively, and are the only bonds payable from the revenues of the System (collectively, the "Refunded Bonds").

1.02 Pursuant to the Act, the 1993 Resolution and the 1994 Resolution (collectively, the "Resolutions"), the City reserved the right to issue refunding bonds for the purpose of redeeming outstanding bonds. The Series 1993 Bonds with stated maturities in 2004 and later years are subject to redemption on July 1, 2003, on any date thereafter at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the date of redemption. The Series 1994 Bonds with

stated maturities in 2005 and later years are subject to redemption on July 1, 2004, and any date thereafter at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the date of redemption. The City desires to refund all of the Refunded Bonds such that all of the presently outstanding bonds payable from the Gross Revenues of the City's Storm Sewer System shall be defeased under the Resolutions, to achieve debt service savings. Based on an analysis provided to the City by RBC Dain Rauscher Inc., of Denver, Colorado, financial consultant to the City (the "Financial Consultant"), the City will need to issue approximately \$7,100,000 in Storm Sewer Gross Revenue Bonds to refund the Refunded Bonds, taking into consideration amounts on hand and available therefore. Assuming the Series 2003 Bonds are issued in the aggregate principal amount of \$7,100,000, the Financial Consultant estimates a net present value savings, using a discount rate of 3.102% (an estimated yield of the Series 2003 Bonds), of \$1,570,456, or 9.266% of the aggregate principal amount of the Refunded Bonds, could be achieved by refunding the Refunded Bonds.

Section 2. Sale of Series 2003 Bonds. Based on the preliminary findings in Section 1.02 hereof, the City hereby determines it is in the best interests of the City to proceed with the issuance of bonds to provide funds to be used with other available funds of the Storm Sewer System to refund the Refunded Bonds. This Council hereby determines based on the recommendation of the Director of Administrative Services that it would be in the best interests of the City to sell the Series 2003 Bonds at a public, competitive sale. Such refunding bonds shall be denominated "Storm Sewer Gross Revenue Refunding Bonds, Series 2003" (the "Series 2003 Bonds").

Section 3. Terms of the Series 2003 Bonds. Pursuant to the authority described in Section 1, this Council hereby authorizes and calls for the issuance and competitive sale of the Series 2003 Bonds in the estimated aggregate principal amount of \$7,100,000. The Series 2003 Bonds shall be sold at a price of not less than 99.5% of the principal amount thereof, for the purpose of providing funds to be used, with other available funds, to refund the Refunded Bonds and producing an annual debt service savings of not less than \$60,000 over the term of the Series 2003 Bonds. The Series 2003 Bonds shall bear interest payable semiannually on January 1 and July 1 of each year, commencing January 1, 2004, over a term not to exceed the term of the Series 1994 Bonds, at a rate or rates designated by the successful bidder at the public sale and approved by this Council. The Director of Administrative Services is authorized in consultation with the Financial Consultant to determine and prepare the terms and conditions of sale under which the Series 2003 Bonds shall be offered and sold (the "Terms and Conditions"), consistent with the provisions hereof.

Section 4. Public Sale. Bids for the purchase of the Series 2003 Bonds shall be considered at a regular meeting of this Council on June 9, 2003 at 6:30 P.M., M.T. The City will receive bids for the Series 2003 Bonds in accordance with the notice of sale hereinafter prescribed. The Director of Administrative Services is authorized and directed to prepare and approve the notice of sale for the Series 2003 Bonds, consistent with the provisions hereof. The City Clerk is hereby authorized and directed to cause notice of the sale to be published in *The Billings Gazette* and *The Billings Times*, Billings, Montana, at least once a week for two successive weeks preceding the date of

sale. The Director of Administrative Services is authorized to postpone and reschedule the public sale if he determines it to be in the best interests of the City.

Section 5. Preliminary Official Statement. The Director of Administrative Services and other officers of the City, in cooperation with the Financial Consultant and the City's bond counsel, are hereby authorized and directed to prepare on behalf of the City a preliminary official statement to be distributed to potential purchasers of the Series 2003 Bonds. Such preliminary official statement shall contain the Official Terms and Conditions 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 Series 2003 Bonds. The Director of Administrative Services is authorized on behalf of the City to deem the preliminary official statement "near final" as of its date, in accordance with Rule 15c2-12(b)(1) promulgated under the Securities Exchange Act of 1934 (the "Rule").

Section 6. Continuing Disclosure. In order to permit bidders for the Bonds and other participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of the Rule, the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The Storm Sewer System Fund of the City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. Neither the City nor the Storm Sewer System Fund has defaulted in any material respect in any undertaking previously entered into by the City under the Rule.

Adopted by the City Council of the City of Billings, Montana, on this 12th day of May, 2003.

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Mayor

Attest:

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City Clerk