

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Yellowstone County, Montana (the "City"), hereby certify that the attached resolution is a true copy of Resolution No. 03-17997, entitled: "RESOLUTION RELATING TO \$7,055,000 STORM SEWER GROSS REVENUE REFUNDING BONDS, SERIES 2003; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF AND CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY FOR SUCH BONDS AND ANY ADDITIONAL BONDS" (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 June 23, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 Councilmembers voted in favor thereof: _____; voted against _____; the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand officially this 23rd day of June, 2003.

City Clerk

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(Not a part of the Resolution, for convenience of reference only
and not to be used in the interpretation of any provision thereof)

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RESOLUTION NO. 03-17997

RESOLUTION RELATING TO \$7,055,000 STORM SEWER GROSS REVENUE REFUNDING BONDS, SERIES 2003; AUTHORIZING THE ISSUANCE AND FIXING THE TERMS AND CONDITIONS THEREOF AND CREATING SPECIAL FUNDS AND ACCOUNTS AND PLEDGING CERTAIN REVENUES AS SECURITY FOR SUCH BONDS AND ANY ADDITIONAL BONDS

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

Section 1. Definitions, Authorizations and Findings.

1.01. Definitions. The terms defined in this Section 1.01 shall for all purposes of this Resolution have the meanings herein specified, unless the context clearly otherwise requires:

Accountant shall mean a Person engaged in the practice of accounting as a certified public accountant, whether or not employed by the City.

Act shall mean Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, and Sections 7-13-4304 through 7-13-4314, as heretofore and hereafter amended or supplemented.

Additional Bonds shall mean any Bonds issued pursuant to Section 6, excluding Subordinate Obligations.

Agency Obligation means obligations issued by the following agencies which are backed by the full faith and credit of the U.S.: (i) U.S. Export-Import Bank (Eximbank) - direct obligations or fully guaranteed certificates of beneficial ownership; (ii) Farmers Home Administration (FmHA) - certificates of beneficial ownership; (iii) Federal Financing Bank; (iv) General Services Administration - participation certificates; (v) U.S. Maritime Administration - guaranteed Title XI financing; (vi) U.S. Department of Housing and Urban Development (HUD) - project notes; local authority bonds; new communities debentures - U.S. government guaranteed debentures; U.S. public housing notes and bonds - U.S. government guaranteed public housing notes and bonds.

Bonds shall mean the Series 2003 Bonds and any Additional Bonds.

Bond Counsel shall mean any firm of nationally recognized bond counsel experienced in matters relating to tax-exempt financing, selected by the City.

Bond Register shall mean the register maintained by the Registrar pursuant to Section 5.

Bondowner shall mean the Person in whose name a Bond is registered in the Bond Register.

Business Day shall mean any day which is not a Saturday or Sunday, a legal holiday in the State or a day on which banks in Montana are authorized or required by law to close.

City shall mean the City of Billings, Montana, or its successors.

City Resolution shall mean a resolution, ordinance or other appropriate enactment by the Council certified by the City Clerk to have been duly adopted and to be in full force and effect.

Code shall mean the Internal Revenue Code of 1986, as amended.

Construction Account shall mean the account created by Section 7.02.

Consultant shall mean a licensed, professional engineer duly qualified to practice in the State of Montana or an Accountant, retained by the City and of favorable reputation.

Council shall mean the governing body of the City.

Debt Service Account shall mean the account created by Section 7.03.

Eligible Investments shall mean any of the following, to the extent authorized by State law:

(1) Government Obligations;

(2) Agency Obligations;

(3) Interest-bearing demand or time deposits issued by state banks, trust companies, national banking associations or savings and loan associations which deposits: (a) must be continuously and fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund, or any successor to either of the Federal Deposit Insurance Corporation, (b) must have maturities of less than 365 days and be obligations of banks the short-term obligations of which are rated "A-1+" or better by Standard & Poor's Ratings Services, or (c) must be secured in accordance with Montana Code Annotated, Section 7-6-207, as amended;

(4) the Montana short-term investment program administered by the Board of Investments of the State of Montana or any similar investment pool administered by the State or any of its agencies;

(5) money market mutual funds that are registered with the federal Securities and Exchange Commission, meeting the requirements of Rule 2a-7 under the Investment Company Act of 1940 and that are rated in either of the two highest categories by a nationally recognized securities rating service; and

(6) bonds, notes or other obligations of any state of the United States or any political subdivision of any state, which at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized securities rating service.

Escrow Agent: U.S. Bank National Association, in Seattle, Washington, and any other bank or bank designated pursuant to this Resolution as the Escrow Agent with respect to the Refunded Bonds.

Escrow Agreement: the Escrow Agreement between the City and the Escrow Agent, relating to the Refunded Bonds, as such may be amended or supplemented from time to time in accordance with the provisions thereof.

Fiscal Year shall mean the period commencing on the first day of July of any year and ending on the last day of June of the next year, or any other specified twelve-month period, authorized by law and specified by the Council as the City's fiscal year.

Government Obligations shall mean direct obligations of or obligations the principal of and the interest on which are fully and unconditionally guaranteed as to payment by, the United States of America.

Gross Revenues shall mean all revenues and receipts from rates, fees, charges and rentals imposed for the availability, benefit and use of the System, and from penalties and interest thereon, and

from any sales of property which is a part of the System and all income received from the investment of such revenues and receipts, including interest earnings on the Reserve Account, the Operating Account, the Repair and Replacement Account and the Surplus Account, but excluding any special assessments or taxes levied for construction of any part of the System and the proceeds of any grant or loan from the State or the United States, and any investment income thereon, to the extent such exclusion is a condition to such grant or loan.

Independent shall mean, when used with respect to any specified Person, such a Person who (i) is in fact independent; (ii) does not have any direct financial interest or any material indirect financial interest in the City, other than the payment to be received under a contract for services to be performed by such Person; and (iii) is not connected with the City as an officer, employee, promoter, trustee, partner, director, underwriter or person performing similar functions. Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished, such Person shall be appointed by the Council and such opinion or certificate shall state that the signer has read this definition and that the signer is Independent within the meaning hereof.

Interest Payment Date shall mean the Stated Maturity of an installment of interest on any of the Bonds.

Maturity shall mean, when used with respect to any Bond, the date on which the principal of such Bond becomes due and payable as therein or herein provided, whether at its Stated Maturity or by declaration of acceleration, call for redemption or otherwise.

Net Revenues shall mean the Gross Revenues for a specified period less the Operating Expenses for the same period.

Operating Account shall mean the account created by Section 7.05.

Operating Expenses shall mean the current expenses, paid or accrued, of operation, maintenance and minor repair of the System, excluding interest on Bonds and depreciation, as calculated in accordance with generally accepted accounting principles, and shall include, without limitation, administrative expenses of the City relating solely to the System, premiums for insurance on the properties thereof, labor and the cost of materials and supplies used for current operation and for maintenance, and charges for the accumulation of appropriate reserves for current expenses which are not recurrent regularly but may reasonably be expected to be incurred.

Opinion of Counsel shall mean a written opinion of counsel, who may (except as otherwise expressly provided in this Resolution) be counsel for the City.

Original Purchaser shall mean, with respect to any series of Bonds, the original purchaser or underwriter of such series of Bonds. The Original Purchaser of the Series 2003 Bonds is Citigroup Global Markets Inc. in Seattle, Washington.

Outstanding shall mean, when used with reference to Bonds, as of the date of determination, all Bonds theretofore issued except:

(i) Bonds theretofore cancelled by the City or delivered to the City cancelled or for cancellation;

(ii) Bonds and portions of Bonds for whose payment or redemption money or Government Obligations (as provided in Section 10) shall have been theretofore deposited in trust for the Owners of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this Resolution or irrevocable

instructions to call such Bonds for redemption at a stated Redemption Date shall have been given to the City; and

(iii) Bonds in exchange for or in lieu of which other Bonds shall have been issued and delivered pursuant to this Resolution;

provided, however, that in determining whether the Owners of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Bonds owned by the City shall be disregarded and deemed not to be Outstanding.

Owner shall mean a Bondowner.

Person shall mean any individual, corporation, partnership, limited liability company, limited liability partnership, joint venture, association, joint stock company, trust, unincorporated organization or government or any agency or political subdivision thereof.

Principal and Interest Requirements shall mean, with respect to any Outstanding Bonds and for any Fiscal Year, the amount of principal of and interest on such Bonds due and payable during such Fiscal Year, assuming that Outstanding Serial Bonds are paid at their Stated Maturities and Outstanding Term Bonds are paid on Sinking Fund Payment Dates according to the mandatory redemption requirements established by the Resolution; provided that if Additional Bonds are issued to refund any Outstanding Bonds and a crossover refunding escrow is established from proceeds thereof as contemplated in Section 6.01(E)(1), then such Additional Bonds shall not be deemed Outstanding for purposes of calculating the Principal and Interest Requirements until the Crossover Date (as defined in Section 6.01(E)(1)).

Principal Payment Date shall mean the Stated Maturity of principal of any Serial Bond and the Sinking Fund Payment Date for any Term Bond.

Project shall mean an improvement, betterment, reconstruction or extension of the System.

Rebate Account shall mean the account created by Section 7.09.

Rebate Certificate shall mean, with respect to a series of Bonds, a certificate delivered by the City on the day of issuance of such Bonds pursuant to which the City represents and covenants to segregate funds, calculate amounts, report and pay to the United States Department of Treasury any rebatable arbitrage relating to the Bonds of any series in accordance with the requirements of Section 148 of the Code and the regulations promulgated thereunder.

Redemption Date when used with respect to any Bond to be redeemed shall mean the date on which it is to be redeemed pursuant hereto.

Redemption Price when used with respect to any Bond to be redeemed shall mean the price at which it is to be redeemed pursuant hereto.

Refunded Bonds shall mean the outstanding Series 1993 Bonds and Series 1994 Bonds.

Refunded Bonds Resolution shall mean Resolution No. 93-16649, adopted by the Council on May 24, 1993, as amended and supplemented by Resolution No. 94-16889, adopted by the Council on October 24, 1994, authorizing the issuance of the Refunded Bonds.

Registrar shall mean, in respect of a series of Bonds, the Person or Persons designated by or pursuant to this Resolution to receive and disburse the principal of, premium, if any, and interest on

Bonds of such series on behalf of the City and to hold and maintain the Bond Register in respect thereof in accordance with Section 5.

Repair and Replacement Account shall mean the account created by Section 7.07.

Reserve Account shall mean the account created by Section 7.03.

Reserve Requirement shall mean, as of the date of reference, an amount equal to the maximum amount of Principal and Interest Requirements on all Outstanding Bonds in the then current or any future Fiscal Year; provided that if Additional Bonds are issued to refund any Outstanding Bonds and a crossover refunding escrow is established from proceeds thereof as contemplated in Section 6.01(E)(1), then such Additional Bonds shall not be deemed Outstanding for purposes of the Reserve Requirement until the Crossover Date (as defined in Section 6.01(E)(1)).

Resolution shall mean this Resolution, as amended and supplemented by any Supplemental Resolution.

Serial Bonds shall mean Bonds which are not Term Bonds.

Series 1993 Bonds shall mean the City's Storm Sewer Gross Revenue Refunding Bonds, Series 1993, dated, as originally issued, as of May 15, 1993 and outstanding in the aggregate principal amount of \$5,110,000.

Series 1994 Bonds shall mean the City's Storm Sewer Gross Revenue Bonds, Series 1994, dated, as originally issued, as of November 1, 1994 and outstanding in the aggregate principal amount of \$2,415,000.

Series 2003 Bonds shall mean the City's Storm Sewer Gross Revenue Refunding Bonds, Series 2003, issued in the original principal amount of \$7,055,000 pursuant to this Resolution.

Sinking Fund Payment Date shall mean one of the dates set forth in any applicable provisions of a Supplemental Resolution (as to any series of Additional Bonds) for the making of mandatory principal payments for Additional Bonds which are Term Bonds.

State shall mean the State of Montana.

Stated Maturity when used with respect to any Bond or any installment of interest thereon shall mean the date specified in such Bond as the fixed date on which the principal of such Bond or such installment of interest is due and payable.

Storm Sewer System Fund shall mean the fund created in Section 7.01 of this Resolution.

Subordinate Obligations shall mean bonds or other obligations of the City payable from the Subordinate Obligations Account and issued in accordance with the provisions of Section 6.02.

Subordinate Obligations Account shall mean the account so named created by Section 7.06.

Supplemental Resolution shall mean any City Resolution amendatory of or supplemental to this Resolution adopted pursuant to Section 9 or authorizing the issuance of Additional Bonds or Subordinate Obligations pursuant to Section 6.

System shall mean the City's municipal storm sewer system, as it may at any time exist, including any replacement, expansion and improvement thereof.

Term Bond shall mean any Bond for the payment of the principal of which mandatory payments are required by the Resolution to be made at times and in amounts sufficient to redeem all or a portion of such Bond prior to its Stated Maturity.

1.02. Rules of Interpretation.

A. All references in this Resolution to designated “Sections” and other subdivisions are to the designated Sections and other subdivisions of this Resolution as originally adopted.

B. The words “herein”, “hereof” and “hereunder” and other words of similar import without reference to any particular Section or subdivision refer to this Resolution as a whole and not to any particular Section or other subdivision unless the context clearly indicates otherwise.

C. The terms defined in this Section 1 shall include the plural as well as the singular.

D. All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles applicable to governmental entities.

E. All computations provided herein shall be made in accordance with generally accepted accounting principles applicable to governmental entities consistently applied.

F. “Or” is not exclusive, but is intended to permit or encompass one, more or all of the alternatives conjoined.

1.03. Authorization. Under 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 or to refund bonds issued for such purposes; provided that the bonds and the interest thereon are to be payable solely out of the income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such storm sewer system, and are not to create any obligation of the City for the payment of which taxes may be levied except to pay for services provided by the storm sewer system to the City.

1.04. Outstanding Bonds. Pursuant to the Refunded Bonds Resolution, the City issued its Series 1993 Bonds in the original aggregate principal amount of \$8,825,000 and its Series 1994 Bonds in the original aggregate principal amount \$3,200,000 in order to finance or refinance certain improvements to the System described in said Refunded Bonds Resolution. On the date hereof, \$5,110,000 in principal amount of the Series 1993 Bonds and \$2,415,000 in principal amount of the Series 1994 are outstanding. There are no other outstanding bonds or indebtedness that is payable from, or secured by, the Gross Revenues of the System.

1.05. Cost of Refunding. The total cost of refunding the Refunded Bonds (the “Refunding”), including costs incidental to the issuance and sale of the Series 2003 Bonds, is estimated as follows:

| | |
|----------------------------|------------------|
| Escrow Deposit | \$6,975,733.67 |
| Deposit to Reserve Account | 995,360.00 |
| Underwriter’s Discount | 50,500.00 |
| Costs of Issuance | <u>68,047.38</u> |
| Total: | \$8,089,641.05 |

The City will apply the proceeds of the Series 2003 Bonds (\$7,094,281.05 (including \$39,281.05 in net original issue premium)) to the refunding of the Refunded Bonds and the costs of issuance of the Series

2003 Bonds and of the refunding and will transfer \$995,360.00 from the debt service reserve fund for the Series 1993 Bonds and the Series 1994 Bonds for credit to the Reserve Account.

1.06. Findings and Determinations. It is hereby found, determined and declared by this Council as follows:

- (a) The City is authorized under the Act to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System, and to pledge and appropriate to the payment of the Bonds the revenues to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired;
- (b) The Gross Revenues to be produced by such rates, charges and rentals during the term of the Series 2003 Bonds will be sufficient to pay the principal of and interest when due on the Series 2003 Bonds, to create and maintain reasonable reserves therefor, to pay the reasonable and ordinary costs of operating and maintaining the System and to provide an adequate allowance for replacement and repair, as herein prescribed; and
- (c) it is in the best interests of the City and its residents to issue and sell the Series 2003 Bonds to refund the Refunded Bonds as provided in the Resolution.

1.07. Recitals. All acts, conditions and things required by the Constitution and laws of the State to be done, to exist, to happen and to be performed prior to the issuance of the Series 2003 Bonds have been done, do exist, have happened, and have been performed in due time, form and manner, wherefore it is now necessary for this Council to establish the form and terms of the Series 2003 Bonds, to provide for the security thereof and to issue the Series 2003 Bonds forthwith

Section 2. The Bonds.

2.01. General Title. The general title of the Bonds of all series shall be "Storm Sewer Gross Revenue Bonds." Bonds of each series shall be titled so as to distinguish them from Bonds of all other series.

2.02. General Limitations: Issuable in Series. The aggregate principal amount of Bonds that may be authenticated and delivered and Outstanding under this Resolution is not limited, except as provided in Sections 4 and 6 and except as may be limited by law.

The Bonds may be issued in series as from time to time authorized by the Council. With respect to the Bonds of any particular series, the City may incorporate in or add to the general title of such Bonds any words, letters or fixtures designed to distinguish that series.

The Bonds shall be special, limited obligations of the City. Principal of, premium, if any, and interest on the Bonds shall be payable solely from the Gross Revenues (other than to the extent payable out of proceeds of the Bonds) and funds on deposit in the Storm Sewer System Fund, as provided in Section 7. The Bonds shall not be or constitute a pledge of the general credit or taxing powers of the City of any kind whatsoever. Neither the Bonds nor any of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the State or the City within the meaning of any constitutional, statutory or charter provisions whatsoever.

If the Stated Maturity for the payment of any interest on or principal of any Bond or if any Redemption Date or Sinking Fund Payment Date shall be a day which is not a Business Day, then such payment may be made on the next succeeding Business Day, with the same force and effect as if made on

such Stated Maturity, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month).

2.03. Terms of Particular Series. Each series of Bonds (except the Series 2003 Bonds, which are created by Section 4) shall be created by a Supplemental Resolution. The Bonds of each series (other than the Series 2003 Bonds, as to which specific provision is made in this Resolution) shall bear such date or dates, shall be payable at such place or places, shall have such Stated Maturities and Redemption Dates, shall bear interest at such rate or rates, from such date or dates, shall be payable in such installments and on such dates and at such place or places, and may be redeemable at such price or prices and upon such terms (in addition to the prices and terms herein specified for redemption of all Bonds) as shall be provided in the Supplemental Resolution creating that series, all upon such terms as the City may determine. The City may, at the time of the creation of any series of Bonds or at any time thereafter, make, and the Bonds of that series may contain provision for:

- A. a sinking, amortization, improvement or other analogous fund;
- B. limiting the aggregate principal amount of the Bonds of that series and of Additional Bonds thereafter to be issued;
- C. exchanging Bonds of that series, at the option of the Owners thereof, for other Bonds of the same series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations; or
- D. registration, transfer and delivery.

2.04. Form and Denominations of Particular Series. The form of the Bonds of each series (other than the Series 2003 Bonds, as to which specific provisions are made in Section 4.01) shall be established by the provisions of the Supplemental Resolution creating such series. The Bonds of each series shall be distinguished from the Bonds of other series in such manner as the Council may determine.

The Bonds of each series shall be in such denominations as shall be provided in the Supplemental Resolution creating such series (other than the Series 2003 Bonds, as to which specific provisions are made in this Resolution). In the absence of any such provision with respect to the Bonds of any particular series, the Bonds of such series shall be in the denomination of \$5,000 or any integral multiple thereof of single maturities.

2.05. Execution and Authentication. The Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor, the Director of Administrative Services and City Clerk (or other officers of the City authorized by proceedings of the Council); provided, that if required by applicable laws, one such signature on each Bond shall be a manual signature. The seal of the City need not be imprinted on or affixed to any Bond. Any Bond bearing the manual or facsimile signature of an individual who was at any time an appropriate officer of the City shall be valid and sufficient for all purposes, regardless of whether such individual held such office as of the date of sale, issue or delivery of such Bond. No Bond shall be valid or obligatory for any purpose or be entitled to any security or benefit under this Resolution unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on each Bond need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution and in accordance with the provisions hereof.

2.06. Temporary Bonds. Pending the preparation of definitive Bonds, the City, if authorized by law, may execute and deliver temporary Bonds which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any denomination, substantially of the tenor of the definitive

Bonds in lieu of which they are issued, with such appropriate insertions, omissions, substitutions and other variations as the officers of the City executing such Bonds may determine, as evidenced by their signing of such Bonds.

If temporary Bonds are issued, the City will cause definitive Bonds to be prepared without unreasonable delay. After the preparation of definitive Bonds, the temporary Bonds shall be exchangeable for definitive Bonds upon surrender of the temporary Bonds, without charge to the Owner. Upon surrender for cancellation of any one or more temporary Bonds the City shall execute and deliver in exchange therefor a like principal amount of definitive Bonds of authorized denominations. Until so exchanged the temporary Bonds shall in all respects be entitled to the same security and benefits under this Resolution as definitive Bonds.

2.07. Priority of Payments. Each and all of the Bonds shall be equally and ratably secured without preference or priority of any one Bond over any other by reason of serial number, date of issue, Series designation or otherwise; provided that if at any time the Gross Revenues on hand in the Fund are insufficient to pay principal and interest then due on all such Bonds, any and all Gross Revenues then on hand shall be first used to pay the interest accrued on all Outstanding Bonds, and the balance shall be applied toward payment of the maturing principal of such Bonds to be paid first, and pro rata in payment of Bonds maturing on the same date.

Section 3. Issuance and Sale of the Series 2003 Bonds; Application of Proceeds; Escrow Agreement.

3.01. Ratification of Issuance and Sale. By Resolution No. 03-17979 adopted April 24, 2003, this Council found, determined and declared it to be necessary and desirable for the City to offer for sale the Series 2003 Bonds in the estimated principal amount of \$7,055,000 for the purpose of providing funds to pay a portion of the costs of the refunding of the Refunded Bonds and the costs of issuance of the Series 2003 Bonds. Pursuant to the provisions of Section 7-7-4503(1) of the Act and Resolution No. 03-17995, adopted June 9, 2003, this Council awarded the sale of the Series 2003 Bonds in the original aggregate principal amount of \$7,055,000 to the Original Purchaser thereof upon the further terms and conditions contained in this Resolution. The debt service savings to result from the refunding is presently estimated to approximate \$900,915.65, calculated on a net present-value basis and using a discount rate of 2.194% over the term of the Series 2003 Bonds. Based on the findings made in Section 1, it is hereby ratified and confirmed that the City is authorized, and this Council hereby ratifies and confirms it to be in the best interest of the City and to be necessary and expedient for the City, to issue the Series 2003 Bonds for the purpose of providing funds to refund the Refunded Bonds, and the sale of the Series 2003 Bonds to the Original Purchaser thereof is hereby confirmed and ratified.

3.02. Official Statement. The Series 2003 Bonds have been offered for sale by the Original Purchaser by means of an Official Statement, dated June 13, 2003, which has been filed in the office of the City Clerk (the "Official Statement"). This Council hereby approves the Official Statement and authorizes it to be executed on behalf of the City by the Director of Administrative Services, or in his absence or disability, the acting Director of Administrative Services. The City hereby consents to the distribution of the Official Statement to prospective purchasers of the Series 2003 Bonds and this Council hereby authorizes and directs the Mayor, the City Clerk and the Director of Administrative Services to execute such certificates relating to the accuracy and completeness of the Official Statement as may be appropriate.

3.03. Application of Proceeds of Series 2003 Bonds. The City shall deposit the proceeds of the sale of the Series 2003 Bonds as follows:

(a) Deposit to the credit of the Debt Service Account the amount of accrued interest, if any, paid by the Original Purchaser thereof to the date of delivery of the Series 2003 Bonds;

(b) Apply proceeds of the Series 2003 Bonds to the extent required and as provided in Section 3.04; and

(c) Deposit the balance of the proceeds of the Series 2003 Bonds in the Construction Account to be used to pay costs of issuance of the Series 2003 Bonds and of the Refunding.

3.04. Escrow for Refunded Bonds. Simultaneously with the delivery of the Series 2003 Bonds, and pursuant to the Escrow Agreement, the Director of Administrative Services shall deposit in escrow with the Escrow Agent, \$6,975,733.67 of the proceeds of the Series 2003 Bonds to be used for the purchase of the securities and to establish the beginning cash balance described in this Section 3.04. The Director of Administrative Services shall cause the amount so deposited to be invested in securities that are direct obligations of or obligations guaranteed by the United States of America, maturing on the dates and bearing interest at the rates required to provide funds sufficient to pay the interest when due on each Refunded Bond to its stated maturity or redemption date, to redeem each then outstanding Series 1993 Bond on July 15, 2003 and to pay or redeem each outstanding Series 1994 Bond on July 1, 2004 and to pay interest thereon when due. The escrow account and all investments thereof shall be held in safekeeping by the Escrow Agent, and said account and all income therefrom are irrevocably appropriated for the purposes stated in this Section 3.04. At or before the time of making said deposit and investment the Mayor and the City Clerk shall execute on behalf of the City the Escrow Agreement, substantially in accordance with the form of such agreement which has been presented to this Council at the meeting at which this Resolution was adopted and is hereby approved.

3.05. Redemption of Refunded Bonds. As described in the preceding paragraph, the outstanding Series 1993 Bonds with stated maturities in 2004 and later years are hereby directed to be called for redemption on July 15, 2003, and the outstanding Series 1994 Bonds with stated maturities in 2005 and later years are hereby directed to be called for redemption on July 1, 2004, all at a redemption price equal to the principal amount thereof with interest accrued thereon to the date of redemption. The Director of Administrative Services is hereby authorized and directed to give notice of such redemption in accordance with the provisions of the Refunded Bonds Resolution, such notices to be given on or promptly after the date of issuance of the Series 2003 Bonds, as well as within 60 days but not less than 30 days before said redemption date of the Series 1994 Bonds. Upon establishment of the escrow account pursuant to Section 3.04, the liability of the City with respect to the Refunded Bonds shall be considered discharged in its entirety, as provided in the Refunded Bonds Resolution.

3.06. Purchase of Obligations. The Director of Administrative Services and other officers of the City are authorized and directed to subscribe, or to authorize the financial advisor to the City in respect of the Series 2003 Bonds or the Escrow Agreement to subscribe, with the United States Department of the Treasury for the purchase of United States Treasury Securities—State and Local Government Series (SLGS), to the extent necessary to provide such securities for the escrow account described in Section 3.04, and any previous subscription for such securities is hereby ratified and confirmed.

Section 4. The Series 2003 Bonds.

4.01. Form of Series 2003 Bonds. The Series 2003 Bonds shall be prepared in substantially the form attached hereto as Exhibit A (which is hereby incorporated herein and made a part hereof), with such appropriate variations, omissions and insertions as are permitted or required by this Resolution; provided that so long as the Series 2003 Bonds are registered in the name of CEDE & Co., as provided in

Section 4.06, such Series 2003 Bonds may provide for the payment of the Redemption Price upon the partial redemption thereof without presentation and surrender of the Series 2003 Bonds.

4.02. Denominations, Stated Maturities, Interest Rates. The Storm Sewer Gross Revenue Refunding Bonds, Series 2003, to be issued hereunder, in the aggregate principal amount of \$7,055,000, shall be issued in fully registered form only, in the denomination of \$5,000 each or any integral multiple thereof of a single maturity. The Stated Maturities of the Series 2003 Serial Bonds shall be on July 1 in the years 2004 to 2014, inclusive. The Series 2003 Bonds shall bear interest from July 1, 2003, until paid or discharged at the annual rates set forth opposite the Stated Maturity of each Series 2003 Bond as follows:

| <u>Maturity (July 1)</u> | <u>Principal Amount</u> | <u>Interest Rate</u> | <u>Maturity (July 1)</u> | <u>Principal Amount</u> | <u>Interest Rate</u> |
|------------------------------|-----------------------------|--------------------------|------------------------------|-----------------------------|--------------------------|
| 2004 | \$845,000 | 2.00% | 2010 | \$960,000 | 2.50% |
| 2005 | 865,000 | 2.00 | 2011 | 180,000 | 2.70 |
| 2006 | 880,000 | 2.00 | 2012 | 185,000 | 2.80 |
| 2007 | 900,000 | 2.00 | 2013 | 190,000 | 3.00 |
| 2008 | 920,000 | 2.00 | 2014 | 195,000 | 3.00 |
| 2009 | 935,000 | 2.20 | | | |

Ownership of the Series 2003 Bonds shall be transferred only upon the bond register of the City hereinafter described. Principal of and interest on the Series 2003 Bonds are payable in lawful money of the United States of America. Principal and premium, if any, shall be payable by check or draft drawn on the Registrar hereinafter described upon presentation and surrender of the Series 2003 Bonds at maturity or upon redemption at the operations center of the Registrar. Interest on the Series 2003 Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2004, by check or draft of the Registrar mailed to the owners of record thereof as such appear in the bond register as of the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

Each Series 2003 Bond shall bear an original issue date as of July 1, 2003. Upon delivery of the Series 2003 Bonds to the Original Purchaser thereof pursuant to Section 4.04 or upon the delivery of Series 2003 Bonds upon a transfer or exchange pursuant to Section 5.01, the Registrar shall date each such Series 2003 Bond so delivered as of the date of its authentication.

4.03. Redemption.

(a) **Optional Redemption.** The Series 2003 Bonds with Stated Maturities in the years 2004 through 2012 shall not be subject to redemption. Series 2003 Bonds with Stated Maturities in 2013 and 2014 shall each be subject to redemption at the option of the City, in whole or in part, and, if in part, from such maturities in such principal amounts as the City may designate in writing and, within a maturity, in \$5,000 principal amounts selected by the Registrar by lot or other manner deemed fair, on July 1, 2012, and any date thereafter at a redemption price equal to the principal amount of the Series 2003 Bonds to be redeemed, together with interest accrued on the principal amount to be redeemed to the date fixed for redemption, without premium.

(b) **Notice of Redemption.** Notice of redemption, stating the amount, the serial numbers, the maturities, the CUSIP numbers and the interest rates of the Series 2003 Bonds or portions thereof called for redemption, shall be mailed by the Director of Administrative Services to the Registrar, if it is other than the Director of Administrative Services, and to the registered owner of each Series 2003 Bond to be redeemed at his address shown in the bond register, not less than thirty (30) days nor more than sixty (60) days before the redemption date therefor; provided that any defect in or failure to give such mailed notice

shall not affect the validity of proceedings for the redemption of any Series 2003 Bond not affected thereby. Notice of the call of any Series 2003 Bond for redemption having been mailed as herein provided, and funds sufficient for the payment thereof with accrued interest having been deposited with the Registrar on or before the redemption date, interest on such Series 2003 Bond shall cease to accrue on said date, and the Owner shall have no further rights with respect thereto or under the Resolution except to receive the redemption price so deposited.

The City may provide that, if at the time of mailing of notice of an optional redemption there shall not have been deposited with the Registrar money sufficient to redeem all the Series 2003 Bonds called for redemption, such notice may state that it is conditional, that is, subject to the deposit of the redemption money with the Registrar not later than the opening of business five Business Days prior to the scheduled redemption date, and such notice shall be of no effect unless such money is so deposited. In the event sufficient money is not on deposit on the required date, then the redemption shall be cancelled and on such cancellation date notice shall be mailed to the Owners of such Series 2003 Bonds to be redeemed in the manner provided in this Section 4.03.

In addition to the notice prescribed by the preceding paragraph, the Director of Administrative Services shall also give, or cause the Registrar to give, notice of the redemption of any Series 2003 Bond or Bonds or portions thereof at least 35 days before the redemption date by certified mail, telecopy or express delivery service to the Original Purchaser of the Series 2003 Bonds and all registered securities depositories then in the business of holding substantial amounts of obligations of the character of the Bonds (such depository now being The Depository Trust Company, of New York, New York) and the one or more national information services that disseminate information regarding municipal bond redemptions; provided that any defect in or any failure to give any notice of redemption prescribed by this paragraph shall not affect the validity of the proceedings for the redemption of any Series 2003 Bond or portion thereof.

Series 2003 Bonds in a denomination larger than \$5,000 may be redeemed in part in any integral multiple of \$5,000. The owner of any Series 2003 Bond redeemed in part shall receive, upon surrender of such Bond to the Registrar, one or more new Series 2003 Bonds in authorized denominations equal in principal amount to the unredeemed portion of the Bond so surrendered.

4.04. Execution and Delivery. The Series 2003 Bonds shall be forthwith prepared for execution under the direction of the City Clerk, at the expense of the City. When the Series 2003 Bonds have been fully executed and authenticated as provided in Section 2.05, they shall be delivered by the Registrar to the Original Purchaser thereof upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

4.05. Transcript Certification. The officers of the City are directed to furnish to the Original Purchaser of the Series 2003 Bonds and to bond counsel certified copies of all proceedings and information in their official records relevant to the authorization, sale, execution and issuance of the Series 2003 Bonds, and such certificates and affidavits as to other matters appearing in their official records or otherwise known to them as may be reasonably required to evidence the validity and security of the Series 2003 Bonds, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations and recitals of the City as to the correctness of all facts stated therein and the completion of all proceedings stated therein to have been taken.

4.06. Securities Depository.

For purposes of this Section the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2003 Bond, the person in whose name such Series 2003 Bond is recorded as the beneficial owner of such Series 2003 Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2003 Bonds.

“DTC” shall mean The Depository Trust Company, of New York, New York.

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Bonds as securities depository.

“Representation Letter” shall mean the Blanket Issuer Letter of Representations pursuant to which the City agrees to comply with DTC’s Operational Arrangements.

(b) The Series 2003 Bonds shall be initially issued as separately authenticated fully registered bonds, and one Series 2003 Bond shall be issued in the principal amount of each Stated Maturity of the Series 2003 Bonds. Upon initial issuance, the ownership of such Series 2003 Bonds shall be registered in the bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive owner of the Series 2003 Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2003 Bonds, selecting the Series 2003 Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Series 2003 Bonds under this resolution, registering the transfer of Series 2003 Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any person claiming a beneficial ownership interest in the Series 2003 Bonds under or through DTC or any Participant, or any other person which is not shown on the bond register as being a registered owner of any Series 2003 Bonds, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2003 Bonds, with respect to any notice which is permitted or required to be given to owners of Series 2003 Bonds under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2003 Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Series 2003 Bonds. So long as any Series 2003 Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Series 2003 Bond, and shall give all notices with respect to such Series 2003 Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of and interest on the Series 2003 Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Series 2003 Bond for each separate Stated Maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2003 Bonds will be transferable to such new nominee in accordance with paragraph (e) of this Section 4.06.

(c) In the event the City determines to discontinue the book-entry system through DTC for the Series 2003 Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2003 Bonds in the form of certificates. In such event, the Series 2003 Bonds will be transferable in accordance with paragraph (e) of this Section 4.06. DTC may determine to discontinue providing its services with respect to the Series 2003 Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2003 Bonds will be transferable in accordance with paragraph (e) of this Section 4.06.

(d) The execution and delivery of the Representation Letter to DTC, if not previously filed with DTC, by the Mayor or Director of Administrative Services is hereby authorized and directed.

(e) In the event that any transfer or exchange of Series 2003 Bonds is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2003 Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this resolution. In the event Series 2003 Bonds in the form of certificates are issued to owners other than Cede & Co., its successor as nominee for DTC as owner of all the Series 2003 Bonds, or another securities depository as owner of all the Bonds, the provisions of this resolution shall also apply to all matters relating thereto, including, without limitation, the printing of such Series 2003 Bonds in the form of bond certificates and the method of payment of principal of and interest on such Series 2003 Bonds in the form of bond certificates.

Section 5. Registration and Appointment of Registrar for the Series 2003 Bonds.

5.01. System of Registration. The City shall cause a register (the "Bond Register") for registration of Series 2003 Bonds and transfers of Series 2003 Bonds to be kept by the Registrar. This Section 5.01 shall establish a system of registration for the Series 2003 Bonds as defined in the Model Public Obligations Registration Act of Montana, and shall govern in the event provisions of the Resolution relating to registration, transfer or exchange of Series 2003 Bonds are inconsistent herewith. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Registrar. The Registrar shall keep at its operations center the Bond Register in which the Registrar shall provide for the registration of ownership of the Series 2003 Bonds and the registration of transfers and exchanges of the Series 2003 Bonds entitled to be registered, transferred or exchanged.

(b) Transfer. Upon surrender for transfer of any Series 2003 Bond duly endorsed by the Owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Owner thereof or by an attorney duly authorized by the Owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2003 Bonds of a like aggregate principal amount and Stated Maturity as requested by the transferor. The Registrar is not required (i) to transfer or exchange any Series 2003 Bond during the period of fifteen days immediately preceding any selection of Series 2003 Bonds and Stated Maturity for redemption, or (ii) to transfer or exchange any Series 2003 Bond which has been selected for redemption.

(c) Exchange. Whenever any Series 2003 Bond is surrendered by the Owner for exchange, the Registrar shall authenticate and deliver one or more new Series 2003 Bonds of a like aggregate principal amount, interest rate and maturity, as requested by the Owner or the Owner's attorney in writing.

(d) Cancellation. All Series 2003 Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Series 2003 Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Series 2003 Bond or separate instrument of transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) Persons Deemed Owners. The City and the Registrar may treat the Person in whose name any Series 2003 Bond is at any time registered in the Bond Register as the absolute owner of such Series 2003 Bond, whether such Series 2003 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, and interest on such Series 2003 Bond and for all other purposes, and all such payments so made to such Person shall be valid and effectual to satisfy and discharge the liability of the City upon such Series 2003 Bond to the extent of the sum or sums to be paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Series 2003 Bonds (except upon a partial redemption of a Series 2003 Bond), the Registrar may impose a charge upon the owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Series 2003 Bonds. In case any Series 2003 Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Series 2003 Bond, of like amount, number, Stated Maturity and tenor in exchange and substitution for and upon cancellation of any such mutilated Series 2003 Bond or in lieu of and in substitution for any such Series 2003 Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Series 2003 Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Series 2003 Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Series 2003 Bonds so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Series 2003 Bond has already matured or has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2003 Bond prior to payment.

5.02. Registrar for the Series 2003 Bonds. The City hereby appoints U.S. Bank National Association, in Seattle, Washington, as the Registrar for the Series 2003 Bonds. The City reserves the right to appoint a suitable bank, trust company or financial institution, whether within or without the State of Montana or the Director of Administrative Services of the City as successor Registrar. In such event, upon merger or consolidation of the Registrar with another corporation, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The City agrees to pay the reasonable and customary charges of the Registrar for the services performed. The City reserves the right to remove any Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Bonds in its possession to the successor Registrar and shall deliver the Bond Register to the successor Registrar. On or before each Principal Payment Date and Interest Payment Date, without further order of the Council, the Director of Administrative Services shall transmit to the Registrar, if other than the Director of Administrative Services, solely from money in the Debt Service Account, money sufficient for the payment of all principal and interest then due on the Bonds.

Section 6. Additional Bonds and Subordinate Obligations.

6.01. Additional Bonds. In addition to the Series 2003 Bonds, whose issuance and delivery is provided for in Section 4, Additional Bonds may at any time and from time to time be issued, sold and delivered by the City but only upon the filing with the City Clerk of the following:

A. A Supplemental Resolution creating the designated series of Additional Bonds and authorizing the issuance and the sale thereof to the Original Purchaser or Purchasers named therein for the purchase price set forth therein;

B. An Opinion of Bond Counsel stating in effect:

(1) that all conditions precedent provided for in this Resolution relating to the issuance and delivery of such Additional Bonds have been complied with, including any conditions precedent specified in this Section 6.01;

(2) that the series of Additional Bonds when issued and delivered by the City will be valid and binding special obligations of the City in accordance with their terms and entitled to the benefits of and secured by this Resolution; and

(3) that the issuance of such Additional Bonds will not adversely affect the exclusion from gross income for purposes of federal income taxation of the interest on any Bonds then Outstanding; and

C. A certificate signed by the Mayor, City Clerk and Director of Administrative Services stating that the City is not then in default under this Resolution or that, upon issuance of such Additional Bonds and application of the proceeds thereof on the date of such issuance, no default would then be existing under this Resolution, and that on the date of issuance of such Additional Bonds the balance in the Reserve Account equals the Reserve Requirement, or the City has covenanted in the Supplemental Resolution authorizing the issuance of the Additional Bonds to increase the balance in the Reserve Account to the Reserve Requirement within two years after the issuance of such Additional Bonds, calculated assuming the issuance of such Additional Bonds (and the defeasance of any Bonds to be defeased by application of the proceeds of the Additional Bonds on the date of issuance thereof).

D. If the Additional Bonds are issued to finance a Project or to refund any Subordinate Obligations, a certificate or report from an Independent Consultant stating that the Net Revenues in the Fiscal Year immediately preceding the issuance of such Additional Bonds were at least equal to 125% of the maximum Principal and Interest Requirements for any complete future Fiscal Year (during the term of the then Outstanding Bonds) with respect to the Outstanding Bonds and the Additional Bonds proposed to be issued. In determining the Net Revenues available, if the City has approved an increase in the rates, fees, charges and rentals for the benefit and availability of the System and the increase shall become effective no later than the first month following the issuance of the Additional Bonds or if the City has extended the System or added land to the City since the beginning of the preceding Fiscal Year which is benefitted by the System, the Independent Consultant may adjust the historical Net Revenues of the System for the preceding Fiscal Year to include Net Revenues which, in the opinion of the Independent Consultant would have been received had such increased rates, fees, charges and rentals been in effect or had such additional land been in the City throughout the preceding Fiscal Year. In addition, if the Independent Consultant determines that the Operating Expenses will be increased or reduced because of the proposed Project, the additional annual Operating Expenses shall be added to, or the reduction in annual Operating Expenses shall be subtracted from, the Operating Expenses for the preceding Fiscal Year, as the case may be, in determining Net Revenues for purposes of the first sentence of this paragraph.

E. If the Additional Bonds are issued to refund any Bonds then Outstanding, the following documents:

(1) a report of an Independent Accountant to the effect that (a) the proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any moneys to be withdrawn from the Debt Service Account or the Reserve Account for such purpose, together with any other funds deposited for such purpose will be not less than an amount sufficient to pay the principal of and redemption premium, if any, on the Outstanding Bonds to be refunded and the interest which will become due and payable on and before the Redemption Dates or Stated Maturities of the Bonds to be refunded, or (b) (i) provision has been made for the payment of such Bonds by the deposit of cash sufficient, or of Government Obligations, the payments of interest on and principal of which are sufficient, to pay the principal amount of and premium, if any, on such Bonds with interest to the Stated Maturities thereof or to any prior Redemption Date or Dates on which they are prepayable, and have been called for redemption or provision has been irrevocably made for their redemption, on such date or dates; or (ii) provision has been made for the payment of such Bonds by the deposit with an escrow agent of Government Obligations, the principal of and interest on which, together with the moneys, if any, deposited with the escrow agent at such time, will be sufficient, if paid timely and in full, to pay when due the interest on and the principal, if any, of the refunding Bonds to be issued until a date designated at the time of deposit, which shall be a date on which the Bonds to be refunded are subject to redemption (the "Crossover Date") and to pay the applicable redemption price of the Bonds to be refunded on the Crossover Date, which Government Obligations and moneys shall be held by the escrow agent.

(2) If the refunded Bonds are to be deemed defeased under Section 10 upon the date of issuance of the refunding Bonds, a copy of irrevocable instructions which have been delivered to the escrow agent or the Registrar, to redeem all the Bonds to be redeemed on such date or dates specified in such instructions.

(3) An Opinion of Bond Counsel stating in effect that the issuance of the Bonds and the establishment of the escrow, if any, referred to in clause (1)(b) of this Section 6.01(E) will not adversely affect the exclusion of interest on the Bonds to be refunded from gross income for purposes of federal income taxation.

(4) If the average Principal and Interest Requirements on the Additional Bonds exceeds the average Principal and Interest Requirements on the Outstanding Bonds to be refunded, during the remaining term of the Outstanding Bonds which are not being refunded, a certificate or report of an Independent Consultant as would be required under the preceding paragraph D of this Section.

6.02. Subordinate Obligations Permitted. Nothing herein prevents the City from issuing Subordinate Obligations having a lien on the Gross Revenues subordinate to the lien thereon of the Bonds under this Resolution and payable solely from the Subordinate Obligations Account. Each Subordinate Bond shall include in its title a word or phrase such as "subordinate" or "junior" or "second lien" and a clear statement that the lien thereon on Gross Revenues is subordinate to the lien of all Bonds on the Gross Revenues and the payment of Operating Expenses. No payment of principal or interest shall be made on any Subordinate Obligation if the City is then in default in the payment of principal or interest on any Bond or if there is a deficiency in the Debt Service Account or the Operating Account or the balance in the Reserve Account is less than the Reserve Requirement.

Section 7. Storm Sewer System Fund.

7.01. Bond Proceeds and Revenues Pledged and Appropriated. A special Storm Sewer System Fund is hereby created and shall be maintained as a separate bookkeeping account on the official books of

the City until all Bonds and interest and redemption premiums due thereon have been fully paid, or the City's obligations with reference to such Bonds has been discharged as provided in Section 10. All proceeds of Bonds and all other funds presently on hand derived from the operation of the System are irrevocably pledged and appropriated to the Storm Sewer System Fund. In addition, there is hereby irrevocably pledged and appropriated to the Storm Sewer System Fund all Gross Revenues. Within the Storm Sewer System Fund shall be separate accounts designated and described in Sections 7.02 through 7.06, to segregate income and expenses received, paid and accrued for the respective purposes described in those sections. The Gross Revenues received in the Fund shall be apportioned semiannually as received from the Yellowstone County Treasurer's office, commencing no later than December 20, 2003.

As of the date of delivery of the Series 2003 Bonds, the Storm Sewer Fund and accounts therein established pursuant to the Refunded Bond Resolutions shall be discontinued and the amounts on deposit in such accounts, to the extent not otherwise appropriated by this Resolution or the Escrow Agreement, shall be transferred to the account of the same name in the Fund.

7.02. Construction Account. The Construction Account is hereby established as a separate account within the Storm Sewer System Fund. Upon delivery of the Series 2003 Bonds, the City shall credit to the Construction Account, from the proceeds of the Series 2003 Bonds, the sum specified in clause (c) of Section 3.03. The Construction Account shall be used only to pay as incurred and allowed Project costs which under accepted accounting practice are capital costs of Projects authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, interest accruing on Bonds during the period of construction of facilities financed thereby and for six months thereafter, if and to the extent that the Debt Service Account is not sufficient for payment of such interest, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the construction and financing of such Projects including the costs of issuance of the Bonds. To the Construction Account shall be credited as received all proceeds of Bonds issued to finance Projects and any other funds appropriated by the City for an improvement, betterment or extension to the System, and all income received from the investment of the Construction Account. In the event there are insufficient funds in the Debt Service Account to pay principal of and interest on the Bonds, when due, after the transfer of funds to the Debt Service Account required in Section 7.03, any moneys then remaining in the Construction Account shall be transferred to the Debt Service Account for that purpose. Upon completion of a Project, the balance remaining in the Construction Account net of any amounts required to be transferred to the Rebate Account as provided in Section 7.09, may be used to pay the cost of other capital improvements to the System but if and to the extent not so used shall be transferred to the Reserve Account to the extent required to establish the Reserve Requirement therein and, to the extent not so required, to the Debt Service Account.

7.03. Debt Service Account. The Debt Service Account is hereby established as a separate account within the Storm Sewer System Fund. Upon delivery of the Series 2003 Bonds, the City shall credit to the Debt Service Account, from the proceeds of the Series 2003 Bonds, the sum specified in clause A of Section 3.03. Upon and as of each semiannual apportionment there shall be credited to the Debt Service Account out of the Gross Revenues an amount equal to not less than the amount of interest due within the next six months on all Bonds then Outstanding and one-half of the principal, if any, to become due within the next twelve months on all Outstanding Bonds (whether due at Stated Maturity, upon mandatory sinking fund redemption of Term Bonds or otherwise); provided that the City shall be entitled to reduce a semiannual apportionment by the amount of any surplus previously credited and then on hand in the Debt Service Account. Except as provided in Section 7.09, money from time to time held in the Debt Service Account shall be disbursed only to meet payments of principal of and interest on the Bonds as such payments become due; provided that on any date when the amount then on hand in the Debt Service Account, plus the amount in the Reserve Account allocable to a series of Bonds, is sufficient with other moneys available for the purpose to pay or discharge all Bonds of that series and the interest

accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when money in the Debt Service Account is temporarily insufficient therefor, to the extent of such deficiency funds shall be advanced to the Debt Service Account out of any revenues theretofore segregated and then on hand in the Reserve Account, the Operating Account, the Repair and Replacement Account or the Surplus Account, in that order.

7.04. Reserve Account. The Reserve Account is hereby established as a separate account within the Storm Sewer System Fund. Upon delivery of the Series 2003 Bonds and from amounts on deposit in the reserve account established by the Refunded Bonds Resolution, the City shall transfer to the Reserve Account an amount equal to the initial Reserve Requirement. If at any time, the balance in the Reserve Account is less than the Reserve Requirement, all Gross Revenues in the Storm Sewer System Fund remaining after the required credit to the Debt Service Account shall be credited to the Reserve Account until the balance therein equals the Reserve Requirement.

If on any Interest Payment Date there shall exist a deficiency in the Debt Service Account, the City shall transfer from the Reserve Account to the Debt Service Account an amount equal to such deficiency.

If the City issues Additional Bonds the City shall provide for increasing the balance in the Reserve Account to the Reserve Requirement, calculated after giving effect to the issuance of such Additional Bonds and the defeasance of any Bonds to be effected upon the issuance of such Additional Bonds, as provided in Section 6.01(C).

Except as provided in Section 7.09, money held in the Reserve Account shall be transferred to the Debt Service Account to be used only to pay maturing principal and interest on Outstanding Bonds when money within the Debt Service Account is insufficient therefor or to pay or defease a Series of Bonds as provided in Article X.

If at any time (including, but not limited to, any Principal Payment Date and any Redemption Date), the balance in the Reserve Account net of any amounts required to be transferred to the Rebate Account as provided in Section 7.09, exceeds the Reserve Requirement, the City shall transfer such excess to the Debt Service Account.

7.05. Operating Account. The Operating Account is hereby established as a separate account within the Storm Sewer System Fund. As of each semiannual apportionment there shall be set aside and credited to the Operating Account, as a first charge on the Gross Revenues remaining after the required credits to the Debt Service Account and the Reserve Account, such amount as may be required over and above the balance then held in the Operating Account to pay the reasonable and necessary Operating Expenses of the System which are then due and payable, or are to be paid prior to the next semiannual apportionment. Operating Expenses shall not include any allowance for interest expense or depreciation, renewals or replacements of capital assets of the System and shall not include any portion of the salaries or wages paid to any officer or employee of the City, except such portion as shall represent reasonable compensation for the performance of duties necessary to the operation of the System. An operating reserve within the Operating Account is to be accumulated and maintained in an amount determined by the City to be necessary to meet contingencies arising in the operation and maintenance of the System. Money in the Operating Account shall be used solely for the payment of current Operating Expenses of the System.

7.06. Subordinate Obligations Account. Upon the issuance of any Subordinate Obligations as permitted by Section 6.02, there shall be established a Subordinate Obligations Account within the Storm Sewer Fund. As of each semiannual apportionment date, there shall be credited to the Subordinate Obligations Account, from the Gross Revenues remaining after the required credits to the Debt Service Account, the Reserve Account and the Operating Account, such amount as may be required to pay

Subordinate Obligations, including reasonable reserves therefor, as provided by any Supplemental Resolution or other instrument. Money on hand in the Subordinate Obligations Account shall be transferred to the Debt Service Account, the Debt Service Reserve Account or the Operating Account if at any time the balance on hand in any such accounts, after any transfer elsewhere authorized is not sufficient to pay all costs payable therefrom.

7.07. Repair and Replacement Account. The Repair and Replacement Account is hereby established as a separate account within the Storm Sewer System Fund. There shall be set aside and credited, upon each semiannual apportionment, to the Repair and Replacement Account such portion of the Gross Revenues, in excess of the current requirements of the Debt Service Account, the Reserve Account, the Operating Account and the Subordinate Obligations Account (which portion of the Gross Revenues is referred to herein as "surplus revenues"), as the City shall determine to be required for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Money in the Repair and Replacement Account shall be used only for the purposes above stated or, if so directed by the Council to pay Operating Expenses, to redeem Bonds which are prepayable according to their terms, to pay principal or interest when due thereon as required in Section 7.03, to pay costs of improvements to the System or, if no default is subsisting under this Resolution, to redeem Subordinate Obligations which are prepayable by their terms or to pay principal of or interest on Subordinate Obligations when due.

7.08. Surplus Account. The Surplus Account is hereby established as a separate account within the Storm Sewer System Fund. Any amount of the surplus revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore a current deficiency in the Debt Service Account or Reserve Account as provided in Sections 7.03 and 7.04, may be used for any of the following purposes and not otherwise:

- (a) To redeem Bonds when and as such Bonds become payable according to their terms; or
- (b) To purchase Bonds on the open market, whether or not the Bonds or other such Bonds may then be prepayable according to their terms; or
- (c) If no default is then subsisting under this Resolution, transfer to the Subordinate Obligations Account for the payment or redemption of Subordinate Obligations when and as such Subordinate Obligations become payable according to their terms, or to purchase Subordinate Obligations on the open market, if no Bonds are then prepayable according to their terms; or
- (d) To be held as a reserve for redemption of Bonds or Subordinate Obligations which are not then but will later be prepayable according to their terms; or
- (e) To pay for repairs of or for the construction and installation of improvements or additions to the System; or
- (f) To pay Operating Expenses and to restore the operating reserve or increase the same when determined to be necessary by the Council.

No money shall at any time be transferred from the Surplus Account or any other account of the Storm Sewer System Fund to any other fund of the City, nor shall such moneys at any time be loaned to other City funds or invested in warrants, special improvement bonds or other obligations payable from other funds, except as provided in Section 7.10.

7.09. Rebate Account. The Rebate Account is hereby established as a separate account within the Storm Sewer System Fund and a 2003 Subaccount is hereby established therein relating to the Series

2003 Bonds. The City shall make deposits to and disbursements from the 2003 Subaccount in accordance with the 2003 Rebate Certificate, and shall invest the 2003 Subaccount pursuant to the requirements of the 2003 Rebate Certificate, and shall deposit income from such investments immediately upon receipt thereof in the 2003 Subaccount.

7.10. Deposit and Investment of Funds. The Director of Administrative Services shall cause all money pertaining to the Storm Sewer System Fund to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of Montana Code Annotated, Section 7-6-201, in a deposit account or accounts. The balance in such accounts, except such portion thereof as shall be guaranteed by federal deposit insurance, shall at all times be secured to its full amount by bonds or securities of the types set forth in said Section 7-6-201. No money shall at any time be withdrawn from such deposit accounts except for the purposes of the Storm Sewer System Fund as authorized in this Resolution; except that money from time to time on hand in the Storm Sewer System Fund may at any time, in the discretion of the Council, be deposited or invested in Eligible Investments, which investments mature and bear interest at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts; provided that funds on hand in the Reserve Account, the Repair and Replacement Account and the Surplus Account may be invested in Eligible Investments maturing not later than five years from the date of the investment; and provided, further, that money on hand in the Surplus Account of the Sanitary Sewerage System Fund may, in the discretion of the Commission, be invested in any securities which are direct, general obligations of the City. Except as otherwise expressly provided herein, income received from the deposit or investment of money in said accounts shall be credited to the account from which the deposit was made or the investment was purchased, and handled and accounted for in the same manner as other money in that account.

Section 8. Covenants.

8.01. General. The City covenants and agrees with the Owners from time to time of all Bonds that the recitals contained in Section 1 are correct; and that until all Bonds are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the System as a public convenience, free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, and will maintain, expend and account for its Storm Sewer System Fund and the several accounts therein as provided in Section 7, and will not incur a further lien or charge on the income or revenues of the System except upon the conditions and in the manner prescribed in Section 6, and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 8. The City further covenants to cause the System to be properly maintained in good operating condition.

8.02. Competing Service. The City will not establish any other facilities in competition with the facilities of the System.

8.03. Property Insurance. The City will cause all buildings, properties, fixtures and equipment constituting a part of the System to be kept insured with a reputable insurance carrier or carriers, qualified under the laws of Montana, in such amounts as are ordinarily carried, and against loss or damage by such hazards and risks as are ordinarily insured against, by public bodies owning and operating properties of a similar character and size; provided that if at any time the City is unable to obtain insurance, it will obtain insurance in such amounts and against risks as are reasonably obtainable. The proceeds of all such insurance shall be available for the repair, replacement or reconstruction of damaged or destroyed property, and until paid out in making good such loss or damage, are pledged as security for the Outstanding Bonds. All insurance proceeds received in excess of the amount required for restoration of the loss or damage compensated thereby shall be and become part of the revenues appropriated to the Storm Sewer System Fund. If for any reason insurance proceeds are insufficient for the repair,

replacement and reconstruction of the insured property, the City shall supply the deficiency from revenues on hand in the Repair and Replacement Account and the Surplus Account.

8.04. Liability Insurance and Surety Bonds. The City will carry insurance against liability of the City and its employees for damage to persons and property resulting from the operation of the System in such amounts as the City determines from time to time to be necessary or advisable by reason of the character and extent of such operation. This covenant shall not preclude the City's ability to participate in the self-insurance program established by the Montana Municipal Insurance Association. It will also cause all persons handling money and other assets of the Storm Sewer System Fund to be adequately bonded for the faithful performance of their duties and to account for and pay over such money to the City. All amounts received under such insurance and bonds shall be applied to the payment of the loss or damage covered thereby. The premiums for all insurance and bonds required by this Section 8.04 and Section 8.03 constitute part of the Operating Expenses of the System, but no insurance liabilities of the City in excess of amounts received under such insurance and bonds shall constitute a lien or charge on revenues or any other assets herein or otherwise pledged to the Storm Sewer System Fund.

8.05. Disposition of Property. The City will not mortgage, lease, sell or otherwise dispose of any real or personal properties of the System, unless:

- (a) Prior to or simultaneous with such mortgage, lease, sale or other disposition, all of the Bonds then Outstanding shall be discharged as provided in Section 10; or
- (b) (i) The properties to be mortgaged, leased sold or otherwise disposed of are unserviceable, inadequate, obsolete or no longer required for use in connection with the System; and
- (ii) the mortgage, lease, sale or other disposition will not prevent the City from complying with the provisions of this Resolution; and
- (iii) all proceeds of the mortgage, lease, sale or other disposition of such properties are deposited into the Storm Sewer System Fund.

8.06. Books and Records. The City will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the Gross Revenues derived from its operation, and the segregation and application of the Gross Revenues in accordance with this Resolution, in such reasonable detail as may be determined by the City in accordance with generally accepted accounting practice and principles. It will cause such books to be maintained on the basis of a Fiscal Year. The City shall, within 180 days after the close of each Fiscal Year, cause to be prepared and supply to the Original Purchasers of any series of Bonds then Outstanding and the Registrar a financial report with respect to the System for such Fiscal Year. The report shall be prepared at the direction of the Director of Administrative Services in accordance with applicable generally accepted accounting principles and, in addition to whatever matters may be thought proper by the Director of Administrative Services to be included therein, shall include the following:

- (a) A statement in detail of the income and expenditures of the System for the Fiscal Year, identifying capital expenditures and separating them from operating expenditures;
- (b) A balance sheet as of the end of the Fiscal Year;
- (c) The amount on hand in each account of the Storm Sewer System Fund at the end of the Fiscal Year;

(d) A list of the insurance policies and fidelity bonds in force at the end of the Fiscal Year, setting out as to each the amount thereof, the risks covered thereby, the name of the insurer or surety and the expiration date of the policy or bond; and

(e) A determination that the report shows full compliance by the City with the provisions of this Resolution during the Fiscal Year covered thereby, including proper segregation of the capital expenditures from Operating Expenses, maintenance of the Reserve Requirement in the Reserve Account, and receipt of Gross Revenues during each Fiscal Year as herein required, or, if the report should reveal that the Gross Revenues have been insufficient for compliance with this Resolution, or that the methods used in accounting for such revenues were contrary to any provision of this Resolution, the report shall include a full explanation thereof, together with recommendations for such change in rates or accounting practices or in the operation of the System as may be required.

The City shall also have prepared and supplied to the Original Purchaser or Purchasers of any series of Bonds then Outstanding and the Registrar within 180 days of the close of each Fiscal Year, an audit report prepared by an Independent certified public accountant or an agency of the state in accordance with generally accepted accounting principles and practice with respect to the financial statements and records of the System. The audit report shall include an analysis of the City's compliance with the provisions of this Resolution.

8.07. Cost of Insurance and Accounting. The insurance and fidelity bond premiums and the cost of the bookkeeping and audits herein provided for and of the billings and collection of the Gross Revenues shall be payable from the Operating Account.

8.08. Handling of Funds. The employees of the City, under the direction and control of the Director of Administrative Services, shall keep books of accounts and collect the rates, charges and rentals for the services and facilities provided by the System and for other money currently receivable on account thereof. All money collected with respect to the System shall be deposited as received with the Director of Administrative Services. The Director of Administrative Services shall be bonded at all times with a surety company authorized to do business in Montana, in the amount of at least \$100,000, to assure the faithful carrying out of such duties, which requirement may be satisfied by a blanket bond covering other City employees as well as the Director of Administrative Services. Any failure on the part of the Director of Administrative Services to comply and to enforce compliance on the part of all officers and employees concerned with the keeping of books and accounts and the collection of rates, charges and rentals and the deposit thereof into the System Fund as provided in this resolution, shall constitute malfeasance for which the Director of Administrative Services and the surety on his bond shall be personally liable.

8.09. Rates and Charges. While any Bonds are Outstanding, the rates, charges and rentals for all services and facilities furnished and made available by the System to the City and its inhabitants, and to all other customers shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining and operating it, and the amounts necessary for the payment of all Bonds and the interest accruing thereon and all Subordinate Obligations and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System. No free service shall be provided to any Person. The City covenants and agrees that the rates, charges and rentals to be charged to all users or beneficiaries of the System shall be maintained and shall be revised whenever and as often as may be necessary, according to schedules such that the Gross Revenues for each Fiscal Year will be at least sufficient to pay the principal of and interest on all Outstanding Bonds to become due in such Fiscal Year, to establish and maintain the Reserve Requirement, to pay promptly reasonable and current Operating Expenses, to pay the principal of and interest on any Subordinate Obligations and to provide reserves for the repair and replacement of the System, and such that Net Revenues for each Fiscal Year will be at least

equal to 125% of the average Principal and Interest Requirements for all future Fiscal Years during which any Bonds will be Outstanding.

If at the close of any Fiscal Year, the Gross Revenues and Net Revenues actually received during such Fiscal Year have been less than required hereby, the City will forthwith prepare a schedule of altered rates, charges and rentals which are just and equitable and sufficient to produce Gross Revenues and Net Revenues in such amounts, and will do all things necessary to the end that such schedule will be placed in operation at the earliest possible date.

The establishment of the percentage of Net Revenues contained in the first paragraph of this Section 8.09 has been deemed necessary in order to sell the Series 2003 Bonds upon terms most advantageous to the City. The excess of Net Revenues over the Principal and Interest Requirements and the Reserve Requirement may be used as authorized in Section 6. The Series 2003 Bonds may be redeemed according to their terms on and after July 1, 2012, and in the estimation of this Council any excess prior to that date of Net Revenues over Principal and Interest Requirements and required maintenance of the Reserve Account will be needed to pay or to provide reserves for payment of replacements, renewals and improvement costs, in order to provide adequate service for the present population and the increase thereof reasonably to be expected; and after that date, any excess not required for such purposes in the judgment of the Council may be used to redeem Bonds and thereby reduce the interest cost thereon to the City and the persons served by the System.

8.10. Billing. The charges for storm sewer services shall be billed at least annually and the City shall take appropriate legal action to collect the unpaid charges, including, to the extent now or hereafter authorized by law, making the charge a lien against the real property served by the sewer connection for which the charge remains unpaid and causing charges with respect to such properties to be collected in the same manner as taxes levied against property within the City. In furtherance of the foregoing, the City covenants and agrees that if storm sewer charges are delinquent as of July 1 in any Fiscal Year, it will certify the delinquent charges as taxes for collection in that Fiscal Year, to the extent authorized by law.

8.11. Appointment of Superintendent. In the event of default on the part of the City in the prompt and full payment of principal of or interest on any Bond, and if such default shall continue for a period of 60 days, the Council will appoint a special superintendent for the System, with the power and responsibility to operate the System for the City, and to recommend to the Council such revisions of the rates and charges and operating policies as may be necessary to comply with this Resolution, and to assure that the Gross Revenues will be sufficient to pay all principal of and interest on Bonds, and he shall in all things so operate the System as to comply fully with all the requirements and provisions of this Resolution. The right of the Owners of the Bonds to require employment of such a superintendent shall not be exclusive, and in the event of default as herein outlined, such Owners shall have the right to proceed at law or in equity, in any form of action which shall to them seem appropriate.

8.12. Bondowners' Rights. No Owner of any Bond shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, without the written concurrence of the Owners of not less than 25% in aggregate principal amount of all such Bonds which are at the time Outstanding; but the Owners of such amount of Bonds may, either at law or in equity, by suit, action or other proceedings, protect and enforce the rights of all Owners of Bonds and compel the performance of any and all of the covenants required herein to be performed by the City and its officers and employees, including but not limited to the filing and maintaining of rates, fees and charges and the collection and proper segregation of Gross Revenues and the application and use thereof. The Owners of a majority in principal amount of Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Bondowners or the exercise of any power conferred on them and the right to waive a default in the performance of any such

covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. Nothing herein, however, shall impair the absolute and unconditional right of the Owner of each Bond to receive payment of the principal of, premium, if any, and interest on such Bond as such principal, premium and interest respectively become due, and to institute suit for any such payment. Any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City with power to charge and collect rates, fees and charges sufficient to provide for the payment of any Bonds, and to apply the Gross Revenues in conformity with this Resolution and the laws of the State of Montana.

Section 9. Supplemental Resolutions.

9.01. General. The City reserves the right to adopt Supplemental Resolutions, from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with this Resolution, and which shall not adversely affect the interests or security of the Owners of Outstanding Bonds, or for the purpose of adding to the covenants and agreements herein contained, or to the Gross Revenues herein pledged, other covenants and agreements thereafter to be observed and additional revenues or income thereafter appropriated to the Storm Sewer System Fund, or for the purpose of surrendering any right or power herein reserved or conferred upon the City, or authorizing the creation and issuance of Additional Bonds or Subordinate Obligations as provided in and subject to the conditions and requirements of Section 6. Any such Supplemental Resolution may be adopted without notice to or the consent of the Owner of any Bonds theretofore issued hereunder.

9.02. Consent of Bondholders. Except as provided in Section 9.01, with the consent of the Owners of two-thirds in principal amount of Outstanding Bonds affected thereby as provided in Sections 9.03 and 9.04, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending this Resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof or of any Supplemental Resolution; provided, however, that no Supplemental Resolution shall be adopted at any time without the consent of the Owners of all Bonds issued hereunder and affected thereby, if it would extend the time of payment of interest thereon or principal thereof, would reduce the interest rate thereon or the amount of the principal or redemption price thereof, would give to any Bond or Bonds any privileges over any other Bond or Bonds, would reduce the sources of revenues or income appropriated to the Storm Sewer System Fund, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution. For purposes of this Section 9.02, Bonds shall be deemed to be "affected" by a Supplemental Resolution if such Supplemental Resolution adversely affects or diminishes the rights of Holders thereof against the City or the Gross Revenues or the Net Revenues.

9.03. Notice. Notice of a Supplemental Resolution to be adopted pursuant to Section 9.02 shall be mailed by first-class mail to the Owners of all Outstanding Bonds at their addresses appearing in the Bond Register, and shall become effective only upon the filing of written consents with the City Clerk, signed by the Owners of not less than two-thirds in principal amount of the Bonds then Outstanding and affected thereby. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Owners in person or by agent duly appointed in writing, and shall become effective when delivered to the City Clerk. Any consent by the Owner of any Bond shall bind him and every future Owner of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent; provided that any Owner may revoke his consent with reference to any Bond by written notice received by the City Clerk before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Owners of the required amount of Bonds have not been received by the City Clerk within one year

after the mailing of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

9.04. Manner of Consent. Proof of the execution of any consent, or of a writing appointing any agent to execute the same, or of the ownership by any person of Bonds payable to bearer, shall be sufficient for any purpose of this Resolution and shall be conclusive in favor of the City if made in the manner provided in this Section 9.04. The fact and date of the execution by any Person of any such consent or appointment may be proved by the affidavit of a witness of such execution or by the certification of any notary public or other officer authorized by law to take acknowledgment of deeds, certifying that the Person signing it acknowledged to him the execution thereof. The fact and date of execution of any such consent may also be proved in any other manner which the City may deem sufficient; but the City may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. The ownership of Bonds shall be proved by the Bond Register.

Section 10. Defeasance.

10.01. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this section, all pledges, covenants and other rights granted by this Resolution to the Owners of such Bonds shall cease, other than to the payment of such Bonds from money segregated for such purpose. The City may also discharge its liability with respect to one or more Bonds in accordance with this Section 10.

10.02. Maturity. The City may discharge its liability with reference to any Bonds and interest thereon which are due on any date by depositing with the Registrar for such Bonds on or before the date a sum sufficient for the payment thereof in full; or if any Bond or interest thereon shall not be paid when due, the City may nevertheless discharge its liability with reference thereto by depositing with the Registrar a sum sufficient for the payment thereof in full with interest accrued to the date of such deposit.

10.03. Redemption. The City may also discharge its liability with reference to any Bonds which are called for redemption on any date in accordance with their terms, by depositing with the Registrar on or before that date an amount equal to the principal, interest and redemption premium, if any, which are then due thereon, provided that notice of such redemption has been duly given as provided in this Resolution.

10.04. Escrow. The City may also at any time discharge its liability in its entirety with reference to any Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or Government Obligations authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal, interest and redemption premiums, if any, to become due on such Bonds at their Stated Maturities or, if such Bonds are prepayable and notice of redemption thereof has been given or irrevocably provided for, to such earlier Redemption Date.

10.05. Deposits in Trust. For purposes of Sections 10.01 to 10.03, if the Registrar is an officer of the City, such deposit shall be deemed to create a trust in favor of the Owners of the Bonds discharged thereby, and such funds shall be used only for the purpose of paying principal thereof and interest thereon.

Section 11. Tax Matters.

11.01. Use of Refinanced Proceeds. The facilities of the System refinanced in whole or in part with proceeds of the Series 2003 Bonds (the "Refinanced Projects") are and will be owned and operated by the City and used by the City to provide storm sewer services to members of the general public. No

user of the System is granted any concession, license or special arrangement with respect to the System. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Refinanced Projects or the System or security for the payment of the Series 2003 Bonds which might cause the Series 2003 Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

11.02. General Covenant. The City covenants and agrees with the Owners from time to time of the Series 2003 Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2003 Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the basic interest on the Series 2003 Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

11.03. Certification. The Mayor, the Director of Administrative Services and the City Clerk, being the officers of the City charged with the responsibility for issuing the Series 2003 Bonds pursuant to this Resolution are hereby authorized and directed to execute and deliver to the Original Purchaser thereof a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2003 Bonds, it is reasonably expected that the proceeds of the Series 2003 Bonds will be used in a manner that would not cause the Series 2003 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

11.04. Arbitrage Rebate. The City acknowledges that the Series 2003 Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2003 Bonds from gross income for federal income tax purposes, unless the Series 2003 Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Series 2003 Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Director of Administrative Services is hereby authorized and directed to execute a 2003 Rebate Certificate, substantially in the form of the Rebate Certificate prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

11.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than November 15, 2003, a statement concerning the Series 2003 Bonds containing the information required by Section 149(e) of the Code.

Section 12. Continuing Disclosure.

12.01. Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Series 2003 Bonds and the security therefor and to permit the Original Purchaser thereof and other participating underwriters in the primary offering of the Series 2003 Bonds to comply with amendments to Rule 15c2-12 promulgated by the Securities and Exchange Commission (the “SEC”) under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12), relating to continuing disclosure (as in effect and interpreted from time to time, the “Rule”), which will enhance the marketability of the Series 2003 Bonds, the City hereby makes the following covenants and agreements for the benefit of the Owners (as hereinafter defined) from time to time of the Outstanding Series 2003 Bonds. The System is

the only “obligated person” in respect of the Series 2003 Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made.

If the City fails to comply with any provisions of this Section 12, any Person aggrieved thereby, including the Owners of any outstanding Series 2003 Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of any agreement or covenant contained in this Section 12, including an action for a writ of mandamus or specific performance. Direct, indirect, consequential and punitive damages shall not be recoverable for any default hereunder to the extent permitted by law. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 12 constitute a default under the Series 2003 Bonds or under any other provision of this Resolution.

As used in this Section 12, “Owner” or “Bondowner” means, in respect of a Series 2003 Bond, the registered owner or owners thereof appearing in the bond register maintained by the Registrar or any “Beneficial Owner” (as hereinafter defined) thereof, if such Beneficial Owner provides to the Registrar evidence of such beneficial ownership in form and substance reasonably satisfactory to the Registrar. As used herein, “Beneficial Owner” means, in respect of a Series 2003 Bond, any Person which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Series 2003 Bond (including persons or entities holding Series 2003 Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Series 2003 Bond for federal income tax purposes.

12.02. Information To Be Disclosed. The City will provide, in the manner set forth in Section 12.03, either directly or indirectly through an agent designated by the City, the following information at the following times:

(A) on or before 180 days after the end of each Fiscal Year, commencing with the Fiscal Year ending June 30, 2003, the following financial information and operating data in respect of the City (the “Disclosure Information”):

(1) the audited financial statements of the City for such Fiscal Year, accompanied by the audit report and opinion of the accountant or government auditor relating thereto, as permitted or required by the laws of the State, containing balance sheets as of the end of such Fiscal Year and a statement of operations, changes in fund balances and cash flows for the System for the Fiscal Year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under State law, as in effect from time to time, or, if and to the extent such financial statements have not been prepared in accordance with such generally accepted accounting principles for reasons beyond the reasonable control of the City, noting the discrepancies therefrom and the effect thereof, and certified as to accuracy and completeness in all material respects by the Director of Administrative Services of the City; and

(2) to the extent not included in the financial statements referred to in paragraph (1) of this Section 12.02, information of the type set forth below, which information may be unaudited, but is to be certified as to accuracy and completeness in all material respects by the City’s financial officer to the best of his or her knowledge, which certification may be based on the reliability of information obtained from governmental or other third party sources:

- (a) a description of any additional borrowing or plans for future financing for the System;
- (b) the financial report to be provided pursuant to Section 8.06;
- (c) updated figures for the number of System connections for the then current fiscal year in format similar to the table “Historical Coverage and Estimated Debt Service Requirements” in the Official Statement;
- (d) updated information of any changes in the user rates in a format similar to the table “Storm Sewer Service Charges” in the Official Statement;
- (e) a list of the major System users for the then current fiscal year in format similar to the table “Largest Storm Sewer Charges” in the Official Statement.

Notwithstanding the foregoing paragraph, if the audited financial statements are not available by the date specified, the City shall provide on or before such date unaudited financial statements in the format required for the audited financial statements as part of the Disclosure Information and, within 10 days after the receipt thereof, the City shall provide the audited financial statements.

Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including official statements, which have been submitted to each of the repositories hereinafter referred to under Section 12.03 or the SEC. If the document incorporated by reference is a final official statement, it must also be available from the Municipal Securities Rulemaking Board. The City shall clearly identify in the Disclosure Information each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the System have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be a Material Fact (as defined in paragraph (B) of this Section 12.02), then, from and after such determination, the Disclosure Information shall include such additional specified data regarding the replacement operations.

If the Disclosure Information is changed or this Section 12 is amended as permitted by this paragraph (A) or Section 12.04, then the City shall include in the next Disclosure Information to be delivered hereunder, to the extent necessary, an explanation of the reasons for the amendment and the effect of any change in the type of financial information or operating data provided.

(B) In a timely manner, to the Municipal Securities Rulemaking Board, to the State Depository, if any, notice of the occurrence of any of the following events which is a Material Fact (as hereinafter defined):

- (1) Principal and interest payment delinquencies;
- (2) Non-payment related defaults;

- (3) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) Substitution of credit or liquidity providers, or their failure to perform;
- (6) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (7) Modifications to rights of security holders;
- (8) Bond calls;
- (9) Defeasances;
- (10) Release, substitution, or sale of property securing repayment of the securities; and
- (11) Rating changes.

As used herein, a “Material Fact” is a fact as to which a substantial likelihood exists that a reasonably prudent investor would attach importance thereto in deciding to buy, hold or sell a Series 2003 Bond or, if not disclosed, would significantly alter the total information otherwise available to an investor from the Official Statement, information disclosed hereunder or information generally available to the public. Notwithstanding the foregoing sentence, a “Material Fact” is also an event that would be deemed “material” for purposes of the purchase, holding or sale of a Series 2003 Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

(C) In a timely manner, to the Municipal Securities Rulemaking Board, to the State Depository, if any, notice of the occurrence of any of the following events or conditions:

- (1) the failure of the City to provide the Disclosure Information required under subsection (A) of Section 12.02 at the time specified thereunder;
- (2) the amendment or supplementing of this Section 12 pursuant to Section 12.04, together with a copy of such amendment or supplement and any explanation provided by the City under subsection (B) of Section 12.04;
- (3) the termination of the obligations of the City under this Section 12 pursuant to Section 12.04; and
- (4) any change in the Fiscal Year of the City.

12.03. Manner of Disclosure. The City agrees to make available the information described in Section 12.02 to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

(A) the information described in subsection (A) of Section 12.02, to each then nationally recognized municipal securities information repository under the Rule and to any state information depository then designated or operated by the State as contemplated by the Rule (the “State Depository”), if any;

(B) the information described in subsection (B) and (C) of Section 12.02, to the Municipal Securities Rulemaking Board and to the State Depository, if any; and

(C) the information described in Section 12.02, to any rating agency then maintaining a rating of the Series 2003 Bonds and, at the expense of such Bondowner, to any Bondowner who requests in writing such information, at the time of transmission under paragraphs (A) or (B) of this Section 12.03, as the case may be, or, if such information is transmitted with a subsequent time of release, at the time such information is to be released.

12.04. Term; Amendments; Interpretation.

(A) The covenants of the City in this Section 12 shall remain in effect so long as any Series 2003 Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this Section 12 shall terminate and be without further effect as of any date on which the City delivers to the Registrar an opinion of Bond Counsel to the effect that, because of legislative action or final judicial or administrative actions or proceedings, the failure of the City to comply with the requirements of this Section 12 will not cause participating underwriters in the primary offering of the Series 2003 Bonds to be in violation of the Rule or other applicable requirements of the Securities Exchange Act of 1934, as amended, or any statutes or laws successor to or amendatory thereof.

(B) This Section 12 (and the form and requirements of the Disclosure Information) may be amended or supplemented by the City from time to time, without notice to (except as provided in paragraph (c)(3) of this Section 12.04) or the consent of the Owners of any Series 2003 Bonds, by a resolution of this Council filed in the office of the recording officer of the City accompanied by an opinion of Bond Counsel, who may rely on certificates of the City and others and the opinion may be subject to customary qualifications, to the effect that: (i) such amendment or supplement (a) is made in connection with a change in circumstances that arises from a change in law or regulation or a change in the identity, nature or status of the System or the type of operations conducted by the System, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this Section 12 as so amended or supplemented would have complied with the requirements of paragraph (b)(5) of the Rule at the time of the primary offering of the Series 2003 Bonds, giving effect to any change in circumstances applicable under clause (i)(a) and assuming that the Rule as in effect and interpreted at the time of the amendment or supplement was in effect at the time of the primary offering; and (iii) such amendment or supplement does not materially impair the interests of the Bondholders under the Rule.

If the Disclosure Information is so amended or if there is any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information are prepared, the City agrees to provide, contemporaneously with the effectiveness of such amendment or the delivery of such Disclosure Information, an explanation of the reasons for the amendment or change and the effect, if any, of the change in the type of financial information or operating data being provided hereunder or on the financial statements.

(C) This Section 12 is entered into to comply with the continuing disclosure provisions of the Rule and should be construed so as to satisfy the requirements of paragraph (b)(5) of the Rule.

Section 12.05. Further Limitation of Liability of City. In and to the extent the limitations of liability contained in subsection (a) are not effective, anything contained in this Section 12 to the contrary notwithstanding, in making the agreements, provisions and covenants set forth in this Section 12, the City has not obligated itself except with respect to the Gross Revenues. None of the agreements or obligations of the City contained herein shall be construed to constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provisions whatsoever or constitute a pledge of the general credit or taxing powers of the City.

Section 13. Effective Date; Repeals. This Resolution shall become effective upon passage and all provisions of ordinances, resolutions and other actions and proceedings of the City which are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

PASSED by the City Council of the City of Billings, Montana, this 23rd day of June, 2003.

Charles F. Tooley

Mayor

Attest: _____
Marita Herold, CMC/AAE City Clerk

EXHIBIT A

[Face of the Series 2003 Bonds]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF YELLOWSTONE

CITY OF BILLINGS

STORM SEWER GROSS REVENUE REFUNDING BOND
SERIES 2003

No. _____

| <u>Interest Rate</u> | <u>Principal Maturity Date</u> | <u>Date of Original Issue</u> | <u>CUSIP</u> |
|--------------------------|------------------------------------|-----------------------------------|--------------|
| | | July 1, 2003 | |

REGISTERED OWNER:

PRINCIPAL AMOUNT:

FOR VALUE RECEIVED, the City of Billings (the "City"), a municipal corporation duly organized and validly existing under the laws of the State of Montana and its City Charter, hereby acknowledges itself to be specially indebted and hereby promises to pay to the registered owner identified above or registered assigns, solely from the Debt Service Account of its Storm Sewer System Fund, the principal amount specified above on the Principal Maturity Date specified above, or, if this Bond is redeemable as stated below, on an earlier date on which it shall have been duly called for redemption, upon presentation and surrender hereof at the operations center, in St. Paul, Minnesota, of the Registrar hereinafter named, with interest thereon, from July 1, 2003, or from such later date to which interest has been paid or duly provided for until the principal amount hereof is paid or until this Bond, if redeemable, has been duly called for redemption, at the annual interest rate specified above. Interest is payable semiannually on January 1 and July 1 in each year, commencing January 1, 2004, to the registered owner of this Bond as such appears of record in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. Interest is payable by check or draft mailed by U.S. Bank National Association, Seattle, Washington, as Bond Registrar, Transfer Agent and Paying Agent, or its successor designated under the resolution described herein (the "Registrar"), at its operations center in St. Paul, Minnesota. The principal of and interest on this Bond are payable in lawful money of the United States of America.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any other nominee of The Depository Trust Company or other securities depository, the Registrar shall pay all principal of and interest on this Bond, and shall give all notices with respect to this Bond, only to Cede & Co. or other nominee in accordance with the operational arrangements of The Depository Trust Company or other securities depository as agreed to by the City.

This Bond is one of a duly authorized issue of Bonds of the City designated as "Storm Sewer Gross Revenue Bonds" (collectively, the "Bonds"), issued and to be issued in one or more series under, and all equally and ratably secured by, a resolution adopted by the City Council on June 23, 2003 (the "Resolution"), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the conditions under which Additional Bonds may be issued on a parity with the Series 2003 Bonds, the conditions under which the Resolution may be amended, the rights of the Owners of the Bonds and other matters. As provided in the Resolution, the Bonds are issuable in series which may vary as in the Resolution provided or permitted. This Bond is one of the series specified in its title, issued in the aggregate principal amount of \$7,055,000 (the "Series 2003 Bonds"), all of like date of original issue and tenor except as to serial number, denomination, date, interest rate, maturity date and redemption privilege. The Series 2003 Bonds are issued by the City for the purpose of providing funds to be used with other available funds of the City to advance refund certain valid outstanding storm sewer gross revenue bonds of the City, which were issued to finance a portion of the costs of certain improvements of the City's municipal storm sewer system (the "System," which term includes all improvements, betterments, extensions and alterations of the System as it exists at any time).

The Series 2003 Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the "Act"), and pursuant to the Resolution. The Bonds are payable solely, and equally and ratably, from the gross revenues and receipts from rates, fees, charges and rentals imposed for the availability, benefit and use of the System and funds on deposit in the Sewer System Fund of the City as provided in the Resolution.

The Bonds are not general obligations of the City and the City's general credit and taxing powers are not pledged to the payment of the Bonds or the premium, if any, or interest thereon. The Bonds do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provisions.

The Series 2003 Bonds maturing in the years 2004 through 2012 are not subject to redemption, but Series 2003 Bonds having stated maturities in 2013 and 2014 are each subject to redemption at the option of the City, in whole or in part, in whole or in part, and, if in part, from such maturities in such principal amounts as the City may designate in writing and, within a maturity, in \$5,000 principal amounts selected by the Registrar by lot or other manner deemed fair, on July 1, 2012, 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, without premium. Notice of redemption is to be mailed, not less than 30 days nor more than 60 days before the date fixed for redemption, to the Registrar and to the registered owner of each Series 2003 Bond to be redeemed; provided that any defect in or failure to give such mailed notice shall not affect the validity of proceedings for the redemption of any Series 2003 Bond not affected thereby. Series 2003 Bonds in a denomination greater than \$5,000 may be redeemed in part, in integral multiples of \$5,000. Upon partial redemption of any Series 2003 Bond, one or more new Series 2003 Bond or Bonds will be delivered to the registered owner without charge, representing the unredeemed principal amount outstanding.

This Bond is a negotiable investment security as provided in the Montana Uniform Commercial Code. As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City held by the Registrar at its operations center in St. Paul, Minnesota, by the registered owner hereof in person or by his attorney duly authorized in writing, upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Series 2003 Bonds of other authorized denominations. Upon such transfer or exchange, the City will cause one or more new Series 2003 Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to

reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

The City and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, and has created a special Storm Sewer System Fund into which the Gross Revenues (as defined in the Resolution) of the System will be paid, and a separate and special Debt Service Account in that Fund, into which will be paid semiannually, from and as a first and prior lien on the Gross Revenues then on hand an amount not less than the interest due on all Outstanding Bonds within the next six months and one-half of the principal on all Outstanding Bonds due within the next twelve months; that the City has credited to the Reserve Account of the Storm Sewer System Fund the sum of \$995,360, and the City has agreed thereafter to credit to the Reserve Account, from the Gross Revenues such additional amounts as may be necessary to maintain a balance therein at least equal to the maximum amount of principal and interest payable on the Series 2003 Bonds and any Additional Bonds in the current and any future fiscal year (the "Reserve Requirement"); that the Debt Service Account and the Reserve Account will be used only to pay the principal of, premium, if any, and interest on the Bonds; that the rates and charges for the System will from time to time be made and kept sufficient to provide Net Revenues (Gross Revenues less Operating Expenses, as defined in the Resolution) for each fiscal year commencing after June 30, 2003, at least equal to 125% of the average of the principal of and interest on the Series 2003 Bonds and any Additional Bonds to become due in all full fiscal years commencing after June 30, 2003, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current expenses of operating and maintaining the System, to pay principal of and interest on any Subordinate Obligations issued under the Resolution and to provide reserves for the repair and replacement of the System; that Additional Bonds may be issued and made payable from the Storm Sewer System Fund on a parity with the Series 2003 Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Gross Revenues, whether or not such obligation shall also constitute a general obligation and indebtedness of the City, unless the lien thereof shall be expressly made subordinate to the lien of the Series 2003 Bonds on such Gross Revenues; that all provisions for the security of the owner of this Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; that this Bond and the interest and premium, if any, hereon are payable solely from the Gross Revenues of the System pledged and appropriated to the Debt Service Account and do not constitute a debt of the City within the meaning of any constitutional, statutory or charter limitation or provision and the issuance of the Series 2003 Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional, statutory or charter limitation and that the opinion attached hereto is a true copy of the legal opinion given by Bond Counsel with reference to the Bonds, dated the date of original issuance and delivery of the Bonds.

This Bond shall not be valid or obligatory for any purpose or be entitled to any security or benefit under the Resolution unless the Certificate of Authentication hereon shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, the City of Billings, Montana, by its City Council, has caused this Bond to be executed by the facsimile signatures of its Mayor, City Clerk and Director of Administrative Services.

(Facsimile Signature)
Mayor

(Facsimile Signature)
City Clerk

(Facsimile Signature)
Director of Administrative Services

Date:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Storm Sewer Gross Revenue Refunding Bonds, Series 2003 delivered pursuant to the Resolution mentioned within.

**U.S. BANK NATIONAL ASSOCIATION,
as Bond Registrar, Transfer Agent and Paying Agent**

By _____
Authorized Representative

The following abbreviations, when used in the inscription on the face of this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

| | | |
|------------|--|--|
| TEN COM -- | as tenants in common | UTMA.....Custodian..... (Cust) (Minor) |
| TEN ENT -- | as tenants by the entireties | |
| JT TEN -- | as joint tenants with right of survivorship and not as tenants in common | under Uniform Transfers to Minors Act..... (State) |

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUED RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER
OF ASSIGNEE:

_____ / _____ /

SIGNATURE GUARANTEE

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without alteration, enlargement or any change whatsoever.

Signature(s) must be guaranteed by an
"eligible guarantor institution" meeting
the requirements of the Registrar,
which requirements include membership
or participation in STAMP or such other
"signature guaranty program" as may be
determined by the Registrar in
addition to or in substitution for STAMP,
all in accordance with the Securities
Exchange Act of 1934, as amended.