

# Billings City Administrator Weekly Report

October 1, 2020

1. **Monday's COVID-19 Update** – update will be given by the Yellowstone County Unified Incident Management Team.
2. **General Obligation Bond Issuance/Sale and City Charter Mill Levy Limits** – During the Monday, September 28, 2020 City Council meeting a discussion on Regular Agenda item #9, included approval of annual assessments for General Obligation (G) bonds previously issued and sold for construction of the Billings Public Library. There was an inquiry about the legality to levy mills for the General Obligation Bonds related to the Library due to the City Charter; please review the attached memorandum that addresses that issue.
3. **Fire Prevention Week** - Due to the COVID-19 Pandemic, our Fire Prevention Bureau will not be able to conduct normal, interactive fire prevention activities next week, which is Fire Prevention Week.

Fire staff took it upon themselves to work in-house, on-duty to create some remarkable videos that can be used by our schools and others by just accessing the City website at the below link.

<https://www.ci.billings.mt.us/2906/FPW-Videos>

We couldn't be prouder of how talented, dedicated and creative they are. They knew they had to come up with another option for Fire Prevention Week and they did it!

4. **MMIA Loss Control Achievement Award** - The City of Billings was recently recognized with MMIA's Award for Loss Control Achievement for First Class Cities for the 2019/2020 fiscal year. The Montana Municipal Interlocal Authority (MMIA) is a member-owned and member-driven organization that provides self-funded employee benefit, liability, property, and workers' compensation coverage to incorporated cities and towns of Montana.

The City of Billings' was recognized for having the lowest incurred dollars in the Workers' Compensation Program for the past five years when compared to other First-Class Cities in the program. Cities participating include Billings, Bozeman, Great Falls, Kalispell, and Missoula.

The recognition can be attributed to an interdepartmental focus on workplace injuries and the resulting direct costs to individual departments within the City. Department management and staff, the Public Works' Safety/Facilities Officer, the City Risk Officer, and the Finance Division work cooperatively to provide safe working environments for employees and to establish direct cost benefits/consequences for individual work location.

5. **Arbor Day Event at Centennial Park** – Attached please find a Gazette article and pictures highlighting a very successful event.

[https://billingsgazette.com/news/local/volunteers-plant-trees-shrubs-at-centennial-park-for-arbor-day/article\\_6224c81a-c979-5afc-b1f9-d71769a40c99.html#tracking-source=home-top-story-1](https://billingsgazette.com/news/local/volunteers-plant-trees-shrubs-at-centennial-park-for-arbor-day/article_6224c81a-c979-5afc-b1f9-d71769a40c99.html#tracking-source=home-top-story-1)

**Have a great weekend.**



# CITY OF BILLINGS

CITY ATTORNEY'S OFFICE  
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BILLINGS, MONTANA 59103

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To: Mayor and City Council

Chris Kukulski, City Administrator

Kevin Iffland, Assistant City Administrator

From: Brent Brooks, City Attorney *BB*

Andy Zoeller, Director of Financial Services *az*

Date: October 1, 2020

Re: General Obligation Bond Issuance/Sale and City Charter Mill Levy Limits

## Introduction

During the Monday September 28, 2020, City Council business meeting a discussion on Regular Agenda item # 9, included approval of annual assessments for General Obligation (GO) bonds previously issued and sold for construction of the Billings Public Library. There was an inquiry about the legality to levy mills for the General Obligation Bonds related to the Library due to the City Charter. This brief memorandum addresses that inquiry.

## Discussion

**City Charter Section 1.02** establishes a limit for the number of mills that can be levied by the City Council. However, City voters may approve mills beyond the limit as provided in Section 1.02 of the Charter which states:

The Council shall not levy more than 74 mills on real and personal property for all purposes, except as specifically authorized by this Charter. The mill levy on real and personal property may be increased above the 74 mills for general purposes as provided in this Section 1.02 only by an affirmative vote of a simple majority of the votes cast in an election on this question."

(emphasis added)

## Library Funding Under the Charter

**City Charter Section 1.04**, concerning the Library states:

"In addition to the mill levies authorized by subsections 1.02 and 1.03 of Article I, the City Council may levy not more than five (5) mills for the purpose of providing

funds for the operation, maintenance and capital needs of the Parmly Library only."

(emphasis added)

### **General Obligation Bonds' Relationship to City Charter**

All GO bonds for projects such as the Billings Public Library have been approved by a simple majority of the votes cast in an election. Specific to the new Library, Resolution No. 11-19073 adopted by City Council, authorized a ballot question to be asked of the voters which requested approval to exceed the mill limit in the City Charter. Within that Resolution, Section 2 provided the ballot language presented to voters as follows:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Sixteen Million Three Hundred Thousand and No/100 Dollars (\$16,300,000), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing and equipping a new library building in replacement of the Billings Public Library, related improvements, and costs associated with the sale and issuance of the bond; and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

(emphasis added)

A majority (56.88%) of the voters approved this GO bond election on November 8, 2011. After the voters approved the issuance of GO bonds in 2011, the related Resolution No. 12-19156 authorized the issuance and sale of the GO bonds for the purpose of paying the costs of designing, constructing and equipping a new library building in replacement of the Billings Parmly Library. Resolutions 11-19073 and 12-19156 are attached to this memorandum as Appendix A and B.

### **Conclusion**

When reading both Section 1.02 and Section 1.04 of the City Charter together, The Charter allows for additional mills to be levied for the Library, so long as they comply with section 1.02, which requires an affirmative vote of the electorate. This affirmative vote occurred November 8, 2011. The GO bond election in 2011 and the issuance and sale of bonds in 2012 complied with and did not violate the City Charter mill levy limit.

City Bond Counsel Erin McCrady, Attorney/Partner with Dorsey & Whitney concurs with this memorandum.

## **Appendix A**

**City Council Resolution No. 11-19073**  
**Adopted June 27, 2011**

RESOLUTION NO. 11-19073

A RESOLUTION OF THE CITY COUNCIL SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BILLINGS, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO SIXTEEN MILLION THREE HUNDRED THOUSAND AND NO/100 DOLLARS (\$16,300,000.00) FOR THE PURPOSE OF PAYING COSTS OF DESIGNING, CONSTRUCTING AND EQUIPPING A NEW LIBRARY BUILDING IN REPLACEMENT OF THE BILLINGS PUBLIC LIBRARY, RELATED IMPROVEMENTS, AND COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF THE BONDS; AND AUTHORIZING THE LEVY OF ADDITIONAL MILLS OVER THE CITY CHARTER LIMIT IN AN AMOUNT SUFFICIENT TO PAY PRINCIPAL OF AND INTEREST ON THE BONDS

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

Section 1. Recitals.

1.01. Authorization. (a) A city is authorized pursuant to Section 7-7-4221, Montana Code Annotated, to issue general obligation bonds pledging the general credit of the city for the purpose of designing, constructing and equipping public buildings, upon approval of the electorate of the city, provided that such indebtedness will not cause the total indebtedness of the city to exceed 2.5% of the total assessed value of taxable property of the city, determined as provided in Section 15-8-111, Montana Code Annotated, ascertained by the last assessment for State and county taxes. A city council is authorized pursuant to Section 7-7-4223, Montana Code Annotated, to call a bond election by adopting a resolution to that effect.

(b) Under the City Charter, except as otherwise authorized, the Council shall not levy more than 74 mills on real and personal property for all purposes, unless there is an affirmative vote of majority of votes cast in an election on the question of whether the mill levy may be increased above the 74 mills.

1.02. Proposed Library Project. It has been proposed by the Library Board and other interested citizens that the City issue general obligation bonds to pay for a portion of the costs of constructing and equipping a new public library and related improvements. The new public library will replace the current library facilities.

1.03. Estimated Cost. The estimated cost of the new public library, including the design thereof, and costs associated with the sale and issuance of the bonds is Eighteen Million Three Hundred Thousand And No/100 Dollars (\$18,300,000.00). The Library Foundation has received a \$2,000,000 cash gift to pay for the design of the new public library and is seeking additional pledges and donations in order to offset the total cost of the new public library. It is proposed that the City issue up to Sixteen Million Three Hundred Thousand And No/100 Dollars (\$16,300,000.00) of its general obligation bonds to pay costs of the new public library. The Library Foundation will transfer the design plans to the City. The principal amount of bonds

ultimately issued by the City will be reduced by the amount of pledges and donations actually received by the Library Foundation or the City for such purpose.

1.04. Debt Limitation. The Council has determined that the issuance of general obligation bonds up to the total aggregate amount of Sixteen Million Three Hundred Thousand And No/100 Dollars (\$16,300,000.00) will not cause the City to exceed its general statutory indebtedness limitation, which for the fiscal year ending June 30, 2011 is calculated to be \$106,233,829.

1.05. Mills. If approved by the voters, there will be a levy of additional mills over a period of 20 years as may be required to pay the principal of and interest on up to \$16,300,000 general obligation bonds for the new public library. Based on the current taxable valuation of the City, it is estimated that 7.66 additional mills per year would be needed to pay the principal of and interest on the general obligation bonds over a 20 year period, assuming a 4.056% interest rate.

1.06. Election. The Council has determined there should be submitted to the electors of the City qualified to vote at bond elections the question of whether the Council shall be authorized to issue and sell general obligation bonds of the City in order to obtain funds for the new public library, paying costs associated with the sale and issuance of the bonds, and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the general obligation bonds.

1.07. Bonds. It is the judgment of the Council that the aggregate sum of up to Sixteen Million Three Hundred Thousand And No/100 Dollars (\$16,300,000.00) in general obligation bonds will be necessary to carry out the purposes set forth above. It is also the judgment and determination of the Council that such general obligation bonds will be payable during a term not to exceed twenty (20) years.

Section 2. Calling of the Election. The City Council hereby calls and directs a special City election to be held on November 8, 2011, to be conducted in accordance with the provisions of Title 13, Chapter 19, Parts 1-3, Montana Code Annotated (the "Mail Ballot Act"), for the purpose of voting on the following question:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Sixteen Million Three Hundred Thousand And No/100 Dollars (\$16,300,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing and equipping a new library building in replacement of the Billings Public Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Section 3. Conduct of Election. All qualified electors of the City shall be entitled to vote at the bond election. The City Clerk is hereby authorized and directed to give notice of the call and details of this election to the Yellowstone County Election Administrator at least 70 days

before the election. The Yellowstone County Election Administrator is requested to give notice of the close of registration and thereafter prepare printed lists of the qualified electors in the City entitled to vote in the election in the City and to conduct the election in the form and manner prescribed by law and consistent with the Mail Ballot Plan, as follows:

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on October 19, 2011, and must be returned by each voter, to the Yellowstone County Election Administrator's Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, October 20, 2011 through November 7, 2011.

On Election Day, November 8, 2011, the only place for deposit of voted ballots will be the office of the Yellowstone County Election Administrator at the Yellowstone County Election Department, 217 North 27th, Billings, Montana, which will be open from 8:00 a.m. to 8:00 p.m., and all ballots must be in that office by 8:00 p.m. on that day in order to be counted. All ballots will be tallied in the office of the Yellowstone County Election Administrator after 8:00 p.m. on November 8, 2011.

A qualified voter who will be absent from the City during the time the election is being conducted may:

- (a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on October 18, 2011; or
- (b) make a written request prior to noon on October 18, 2011, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than October 19, 2011.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

- (a) signing an affidavit form stating the reason for the request for replacement; and
- (b) if the reason given for replacement is "spoiled ballot," by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

**Section 4. Notice of Election.** The City Clerk is hereby authorized and requested to cause notice of the call and holding of the election to be given by publishing notice at least once a week for the three consecutive weeks before the election in the *Billings Times*, a newspaper of general circulation in Yellowstone County. The notice of election as published shall read substantially as shown on Exhibit A hereto (which is incorporated by reference and made a part hereof).

Section 5. Form of Ballot. The ballot shall be printed in substantially the following form:

OFFICIAL BALLOT  
CITY OF BILLINGS, MONTANA  
GENERAL OBLIGATION BOND ELECTION  
NOVEMBER 8, 2011

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "GENERAL OBLIGATION BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "GENERAL OBLIGATION BONDS--NO".

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Sixteen Million Three Hundred Thousand And No/100 Dollars (\$16,300,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing and equipping a new library building in replacement of the Billings Public Library, related improvements, and costs associated with the sale and issuance of the bond; and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

GENERAL OBLIGATION BONDS — YES

GENERAL OBLIGATION BONDS — NO

Section 6. Notice to County Election Administrator. A copy of this Resolution will be provided to the Yellowstone County Election Administrator as soon as possible after its adoption and approval in order to inform him of the details of the election and the pertinent requests and authorizations as to the conduct of the election.

EXHIBIT A

NOTICE OF GENERAL OBLIGATION BOND ELECTION  
City of Billings, Montana  
November 8, 2011

NOTICE IS HEREBY GIVEN by the City Council (the "Council") of the City of Billings, Montana (the "City"), that pursuant to a certain resolution duly adopted at a regular meeting of the Council on June 27, 2011, a special city election of the registered voters of the City will be held on November 8, 2011, conducted by mail ballot, for the purpose of voting on the following question:

Shall the City Council (the "Council") of the City of Billings, Montana (the "City") be authorized to issue and sell general obligation bonds of the City in one or more series in the amount of up to Sixteen Million Six Three Hundred Thousand And No/100 Dollars (\$16,300,000.00), bearing interest at a rate or rates to be determined by the Council and payable during a term not to exceed twenty (20) years for the purpose of paying costs of designing, constructing and equipping a new library building in replacement of the Billings Public Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on October 19, 2011, and must be returned by each voter, to the Yellowstone County Election Administrator's Office by mail or in person to the Yellowstone County Election Administrator, Yellowstone County, 217 North 27th, Billings, Montana 59107, during regular business hours (8:00 a.m. to 5:00 p.m.), weekdays, October 20, 2011 through November 7, 2011.

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- (a) vote in person in the office of the Yellowstone County Election Administrator as soon as the ballots are available and until noon on October 18, 2011; or
- (b) make a written request prior to noon on October 18, 2011, signed by the applicant and addressed to the office of the Yellowstone County Election Administrator, that the ballot be mailed to an address other than that which appears on the registration records. All ballots to be mailed will be mailed no later than October 19, 2011.

An elector may obtain a replacement ballot if his ballot is destroyed, spoiled, lost, or not received by the elector by personally appearing at the office of the Yellowstone County Election Administrator and by:

- (a) signing an affidavit form stating the reason for the request for replacement; and
- (b) if the reason given for replacement is "spoiled ballot," by returning the spoiled ballot to the office of the Yellowstone County Election Administrator.

DATED this 27th day of June, 2011.

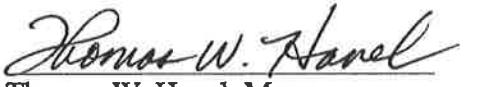
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City Clerk

Publish:      September 22, 2011  
                 September 29, 2011  
                 October 6, 2011

PASSED by the City Council of Billings, Montana, this 27th day of June, 2011.

CITY OF BILLINGS, MONTANA

  
Thomas W. Hanel  
Thomas W. Hanel, Mayor

Attest: Cari Martin  
Cari Martin, City Clerk

(SEAL)



## **Appendix B**

**City Council Resolution No. 12-19156**  
**Adopted May 14, 2012**

RESOLUTION NO. 12-19156

RESOLUTION RELATING TO UP TO \$16,300,000 GENERAL OBLIGATION LIBRARY BONDS, SERIES 2012; AUTHORIZING THE ISSUANCE AND PRIVATE NEGOTIATED SALE THEREOF AND THE SECURITY THEREFOR

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

Section 1. Recitals. The electors of the City at an election duly called, noticed and held on November 8, 2011, at which 31,406 of the 49,526 registered electors voted (63.41% of the registered electors voted), by a vote of 17,181 in favor and 13,023 opposed (56.88% of the votes cast were in favor), authorized this Council to issue and sell \$16,300,000 principal amount of general obligation bonds of the City for the purpose of paying the costs of designing, constructing and equipping a new library building in replacement of the Billings Parmly Library and related improvements (the "Project") and costs associated with the sale and issuance of the bonds. The City has determined that it is necessary and desirable and in the best interests of the City to issue general obligation bonds in an aggregate principal amount not to exceed \$16,300,000 (the "Series 2012 Bonds") to fund the Project. The indebtedness to be evidenced by the Bonds and all other indebtedness of the City does not exceed the limitation set forth in Section 7-7-4201, Montana Code Annotated.

Section 2. Sale and Terms.

2.01. Selection of Purchasers and Negotiation of Sale. Pursuant to Sections 7-7-4254 and 17-5-107, Montana Code Annotated, this Council hereby determines that it is in the best interests of the City to sell the Bonds at a private negotiated sale at a price not less than 97% of the principal amount thereof, including interest thereon to the date of delivery, to D.A. Davidson & Co., of Great Falls, Montana and Piper Jaffray & Co., Denver, Colorado (together, the "Purchasers").

2.03. Pricing and Terms. The Bonds shall be sold to the Purchasers on the terms and at a purchase price subject to the following limitations and conditions: (1) the aggregate principal amount of the Bonds shall not exceed \$16,300,000; (2) the maximum true interest cost on the Bonds shall not exceed 4.25% per annum; (3) the purchase price of the bonds shall not be less than 99.2% of the principal amount thereof, exclusive of original issue premium or discount; (4) the term of the Bonds shall not exceed 20 years commencing on July 1 of the fiscal year in which the City first levies taxes to pay principal of and interest on the Bonds; and (5) the Bonds shall be subject to redemption no later than one-half of their term and any day thereafter, at the option of the City, in whole or in part.

The City Administrator and the City Finance Director are authorized to reduce the principal amount of the Bonds if donations for construction of the Project are received prior to the sale.

2.04. Bond Purchase Agreement. The City Administrator and the City Finance Director in consultation with Springsted Incorporated, the City's Financial Advisor, are hereby authorized

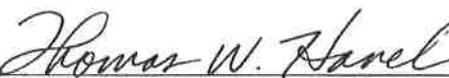
and directed to approve the principal amount, maturity dates, interest rates and redemption provisions of the Bonds and compensation to the Purchasers, subject to the limitations contained in this Article 2. Upon approving such terms, the City Administrator and the City Finance Director are hereby authorized and directed to approve, execute and deliver to the Purchasers a bond purchase agreement (the "Bond Purchase Agreement"), containing the agreement of the City to sell, and the agreement of the Purchasers to purchase, the Bonds on the terms so approved, and containing such other provisions as such officers shall deem necessary and appropriate. In the event of the absence or disability of the City Administrator and City Finance Director, the Mayor or Deputy City Administrator shall make such approvals and execute and deliver the Bond Purchase Agreement. The execution and delivery by appropriate officers of the City of the Bond Purchase Agreement shall be conclusive as to the approval of such officers of the terms of the Bonds and the agreement of the City to sell the Bonds on such terms in accordance with the provisions thereof.

Section 3. Official Statement. The City Finance Director, in consultation with Springsted Incorporated, the Purchasers and Dorsey & Whitney LLP, the City's bond counsel, are authorized to prepare on behalf of the City an Official Statement, to be distributed by the Purchasers to prospective purchasers of the Bonds. The Official Statement shall contain such information as shall be advisable and necessary to describe accurately the City and the security for, and the terms and conditions of, the Bonds. The City Administrator and City Finance Director are authorized on behalf of the Council to deem the Preliminary Official Statement near "final" as of its date, in accordance with Rule 15c2-12(b)(1) under the Securities Exchange Act of 1934.

PASSED AND APPROVED by the City Council of the City of Billings, Montana, this 14th day of May, 2012.



CITY OF BILLINGS

  
Thomas W. Hanel  
Thomas W. Hanel, Mayor

Attest: Cari Martin  
Cari Martin, City Clerk