

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$1,700,000 GENERAL OBLIGATION BONDS, SERIES 2000; DETERMINING THE FORM AND DETAILS, AUTHORIZING THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE PAYMENT THEREOF" (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 March 27, 2000, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: Unanimous _____; voted against the same: none _____; abstained from voting thereon: none _____; or were absent: Ohnstad _____.

WITNESS my hand and seal officially this 27 day of March, 2000.

(SEAL)



Marita Nerold
City Clerk

RESOLUTION NO. 00-17547

RESOLUTION RELATING TO \$1,700,000 GENERAL OBLIGATION BONDS,
SERIES 2000; DETERMINING THE FORM AND DETAILS, AUTHORIZING
THE EXECUTION AND DELIVERY AND LEVYING TAXES FOR THE
PAYMENT THEREOF

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

Section 1. Authorization and Sale; Recitals.

1.01. Authorization and Sale. At an election duly called and held November 2, 1999, the electors of the City authorized this Council to issue and sell \$1,700,000 principal amount of general obligation bonds (the "Bonds") of the City for the purpose of designing, constructing and equipping in Billings Heights a community recreation center, including gymnasium, other recreation, meeting, and support spaces and an indoor/outdoor recreation and aquatic center and refurbishing and rehabilitating playgrounds, basketball courts and tennis courts as required in existing parks and related improvements including repairing and reconstruction of parking lots as needed, providing matching funds for constructing bikenet trails (the "Project") and paying costs associated with the sale and issuance of the bonds and authorizing the levy of additional mills over the existing and approved charter levy limitation to pay principal of and interest on the bonds. On July 26, 1999, the City authorized and provided for the issuance and sale of its general obligation bonds in the amount of \$1,700,000 to fund the authorized Project. Pursuant to such authorization, this Council at a public sale duly noticed and held on March 13, 2000, awarded the sale of the Bonds to D.A. Davidson & Co., of Great Falls, Montana, on a bid to purchase the Bonds at a price of \$1,700,000 and accrued interest to the date of delivery, the Bonds to bear interest at the rates designated by the Purchaser in such bid and as set forth in Section 2.01 of this resolution, which rates result in a net interest cost of 5.53324%. The rates of interest designated by the Purchaser result in a total dollar interest cost of \$1,202,651.88. It is hereby found, determined and declared that the interest rates designated by the Purchaser and set forth in Section 2.01 are consistent with the Purchaser's bid accepted by this Council on March 13, 2000 and are hereby approved. It is now desirable, proper and in the best interest of the City that the form and details of the Bonds be set forth and prescribed in the official proceedings of this Council.

1.02. Recitals. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 7, Part 42, as amended, in order to make the Bonds valid and binding general obligations in accordance with their terms and in accordance with the terms of this resolution have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required. The indebtedness to be evidenced by the Bonds for cultural, social and recreational purposes does not exceed 16.5% of the taxable value of the property subject to taxation by the City as ascertained by the last completed assessment for state and county taxes previous to this date, plus

33% of the taxable value of class eight property within the City for tax year 1995, multiplied by 16.5%, plus an additional 50% of the taxable value attributable to telecommunications property under Montana Code Annotated, Section 15-6-141 within the City for tax year 1999, multiplied by 16.5%, plus an additional 50% of the taxable value attributable to electrical generation property under Montana Code Annotated, Section 15-6-141 within the City for tax year 1999, multiplied by 16.5%. The indebtedness to be evidenced by the Bonds, together with all other indebtedness of the City, does not exceed 28% of the taxable value of the property subject to taxation by the City as ascertained by the last completed assessment for state and county taxes previous to this date, plus 33% of the taxable value of class eight property within the City for tax year 1995, multiplied by 28%, plus an additional 50% of the taxable value attributable to telecommunications property under Montana Code Annotated, Section 15-6-141 within the City for tax year 1999, multiplied by 28%, plus an additional 50% of the taxable value attributable to electrical generation property under Montana Code Annotated, Section 15-6-141 within the City for tax year 1999, multiplied by 28%. The City has full power and authority to issue the Bonds.

Section 2. Bond Terms, Execution and Delivery.

2.01. Term of Bonds. The Bonds shall be designated "General Obligation Bonds, Series 2000." The Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities; provided that one Bond with a stated maturity in 2000 shall be in the principal amount of \$7,000. The Bonds shall mature on July 1 in the years and amounts listed below, and Bonds maturing in such years and amounts shall bear interest from date of original issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Rate</u>
2001	\$20,000	6.25%	2011	\$ 85,000	5.25%
2002	50,000	6.25	2012	90,000	5.25
2003	55,000	6.25	2013	95,000	5.30
2004	55,000	6.00	2014	100,000	5.35
2005	60,000	6.00	2015	105,000	5.40
2006	65,000	5.75	2016	115,000	5.55
2007	65,000	5.75	2017	120,000	5.60
2008	70,000	5.10	2018	125,000	5.65
2009	75,000	5.15	2019	130,000	5.70
2010	80,000	5.20	2020	140,000	5.75

2.02. Registered Form, Interest Payment Dates. The Bonds shall be issuable only in fully registered form, and the ownership of the Bonds shall be transferred only upon the bond register of the City hereinafter described. The interest on the Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2001. Interest on the Bonds shall be payable to the owners of record thereof as such appear on the bond register as of the close of

business on the fifteenth day of the month immediately preceding each interest payment date, whether or not such day is a business day. Interest on, and upon presentation and surrender thereof, the principal of each Bond, and, upon presentation and surrender thereof, shall be payable by check or draft issued by the Registrar described herein.

2.03. Dated Date. Each Bond shall be originally dated as of April 1, 2000, and upon authentication of any Bond the Bond Registrar, Transfer Agent and Paying Agent shall indicate thereon the date of such authentication.

2.04. Registration. The City hereby appoints the Director of Finance of the City to act as bond registrar, transfer agent and paying agent (the "Registrar"). The City reserves the right to appoint a bank, trust company or fiscal company as successor bond registrar, transfer agent or paying agent, as authorized by the Model Public Obligations Registration Act of Montana (the "Act"), but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed. This Section 2.04 shall establish a system of registration for the Bonds as defined by the Act. The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

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

(b) Transfer. Upon surrender for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of the transfer of any Bond or principal installment thereof to be selected or called for redemption.

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

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

(e) Improper or Unauthorized Transfer. When any 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 Bond or separate instrument of transfer is valid and genuine and

that the requested 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 Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Bond and for all other purposes, and all such payments so made to any such registered owner or upon the owner's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer of Bonds or exchange of Bonds, 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 Bonds. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar 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 Bonds so surrendered to the Registrar shall be canceled by it and evidence of such cancellation shall be given to the City. If the mutilated, destroyed, stolen or lost Bond has already matured or such Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

2.05. Optional Redemption. Bonds maturing in the years 2001 through 2010 shall not be subject to redemption prior to maturity, but Bonds maturing in the years 2011 through 2020 shall each be subject to redemption and prepayment within a maturity in \$5,000 principal amounts selected by the Registrar by lot or any other manner deemed fair, at the option of the City on July 1, 2010, and any day thereafter, at a price equal to the principal amount thereof and interest accrued to the redemption date. The date of redemption and the principal amount of the Bonds shall be fixed by the Director of Finance. The Registrar shall cause notice of redemption to be published as required by law, and, at least thirty days prior to the designated redemption date, shall cause notice of redemption to be mailed, by first class mail, to the registered owners of each Bond to be redeemed at their addresses as they appear on the bond register described in Section 2.04, but no defect in or failure to give such mailed notice shall

affect the validity of proceedings for the redemption of any Bond not affected by such defect or failure.

The notice of redemption shall specify the redemption date, redemption price, the numbers, interest rates and CUSIP numbers of the Bonds to be redeemed and the place at which the Bonds are to be surrendered for payment, which is the principal office of the Registrar. Official notice of redemption having been given as aforesaid, the Bonds or portions thereof so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions thereof shall cease to bear interest.

In addition to the notice prescribed by the preceding paragraph, the Registrar shall also give, or cause to be given, notice of the redemption of any Bond or Bonds or portions thereof at least 35 days before the redemption date by certified mail or telecopy to the Purchaser 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 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 Bond or portion thereof.

2.06. Execution, Registration and Delivery. The Bonds shall be prepared under the direction of the City Clerk and shall be executed on behalf of the City by the signatures of the Mayor, the Interim Director of Finance and the City Clerk and sealed with the official seal of the City; provided that the seal and all signatures may be printed, engraved or lithographed facsimiles of the originals. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. When the Bonds have been so executed by said City officers, they shall be registered by the Interim Director of Finance in accordance with Montana Code Annotated, Section 7-7-4257. Notwithstanding such execution, 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 different Bonds 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. When the Bonds have been fully executed and authenticated, they shall be delivered by the Interim Director of Finance to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Purchaser shall not be obligated to see to the application of the purchase price.

Section 3. Form of Bonds, Opinion.

3.01. Form. The Bonds shall be issued in substantially the following form:

[Face of the Bonds]

UNITED STATES OF AMERICA
STATE OF MONTANA
YELLOWSTONE COUNTY
CITY OF BILLINGS

GENERAL OBLIGATION BOND, SERIES 2000

No. _____ \$ _____

<u>Rate</u>	<u>Maturity</u> <u>Date</u>	<u>Date of</u> <u>Original Issue</u>	<u>CUSIP</u>
	July 1,	April 1, 2000	

REGISTERED OWNER:

SEE REVERSE FOR
CERTAIN DEFINITIONS

PRINCIPAL AMOUNT:

DOLLARS

The City of Billings, Yellowstone County, State of Montana (the "City"), acknowledges itself to be indebted and for value received hereby promises to pay to the registered owner named above, or registered assigns, the principal amount specified above on the maturity date specified above or, if this Bond is prepayable as stated herein, on any date prior thereto on which this Bond shall have been duly called for redemption, and to pay interest on said principal amount to the registered owner hereof from April 1, 2000 or from such later date to which interest has been paid or duly provided for until this Bond is paid or, if this Bond is prepayable, until it has been duly called for redemption, at the rate specified above. Principal of this Bond is payable by check or draft of the Director of Finance of the City of Billings, Montana, as bond registrar and paying agent, or its successor designated under the Bond Resolution described herein (the "Registrar"). Interest on this Bond is payable semiannually on each January 1 and July 1, commencing on January 1, 2001, by check or draft mailed by the Registrar to the person in whose name this Bond is registered as of the close of business on the 15th day (whether or not a Business Day) of the immediately preceding month, at his address as it appears on the bond register maintained by the Registrar. "Business Day" means any day other than a Saturday, Sunday or legal holiday of the State of Montana.

The principal of and interest on this Bond are payable in lawful money of the United States of America. For the prompt and full payment of such principal and interest as the

same respectively become due, the full faith, credit and taxing powers of the City have been and are hereby irrevocably pledged.

Additional provisions of this Bond are contained on the reverse hereof and such provisions shall for all purposes have the same effect as though fully set forth hereon.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until 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, Yellowstone County, State of Montana, by its City Council, has caused this Bond to be executed by the facsimile signatures of the Mayor, the Interim Director of Finance and the City Clerk, and by a facsimile of the official seal of the City.

CITY OF BILLINGS, MONTANA

(Facsimile Signature)
Mayor

(Facsimile Signature)
Interim Director of Finance

(Facsimile Signature)
City Clerk

Date of Authentication:

CERTIFICATE OF AUTHENTICATION

This is one of the Series 2000 Bonds delivered pursuant to the Resolution mentioned within.

DIRECTOR OF FINANCE, CITY OF
BILLINGS, as Registrar

By _____
Authorized Representative

[Reverse of Bonds]

This Bond is one of an issue in the total principal amount of \$1,700,000 (the "Series 2000 Bonds"), all of like date of original issue and tenor except as to serial number, denomination, maturity date, interest rate and redemption privilege, all authorized by the favorable vote of more than the requisite majority of the qualified electors of the City voting on the question of the issuance thereof at an election duly held, for the City for the purpose of acquiring funds for designing, constructing and equipping in Billings Heights a community recreation center, including gymnasium, other recreation, meeting, and support spaces and an indoor/outdoor recreation and aquatic center and refurbishing and rehabilitating playgrounds, basketball courts and tennis courts as required in existing parks and related improvements including repairing and reconstruction of parking lots as needed, providing matching funds for constructing bikenet trails and paying costs associated with the sale and issuance of the bonds and authorizing the levy of additional mills over the existing and approved charter levy limitation, all pursuant to resolutions duly adopted by the City Council, including a resolution adopted on March 27, 2000 (the "Resolution"), and in full conformity with the Constitution and laws of the State of Montana thereunto enabling. The Series 2000 Bonds are issuable only as fully registered Series 2000 Bonds of single maturities, in denominations of \$5,000 or any integral multiple thereof.

Series 2000 Bonds of this issue maturing in the years 2001 through 2010 are payable on their respective stated maturity dates without option of prior payment, but Series 2000 Bonds having stated maturity dates in the years 2011 through 2020 are each subject to redemption and prepayment at the option of the City, in \$5,000 principal amounts selected by lot or any other manner deemed fair within a maturity on July 1, 2010, and any day thereafter, at a price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date. The date of redemption and the principal amount of the Series 2000 Bonds shall be fixed by the Director of Finance, who shall give notice by mail to the owners of such Bonds at their addresses shown on the bond register and Bonds to be redeemed and the date on

which payment will be made, which date shall not be less than thirty days after the mailing of notice, on which date so fixed interest shall cease. Upon partial redemption of any Series 2000 Bond, a new Bond or Bonds will be delivered to the registered owner without charge, representing the remaining principal amount outstanding.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the City at the principal office of the Registrar, 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 2000 Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2000 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 all acts, conditions and things required by the Constitution and laws of the State of Montana to be done, to exist, to happen and to be performed precedent to and in the issuance of this Bond, in order to make it a valid and binding general obligation of the City according to its terms, have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; that the City Council will annually levy an ad valorem tax on all of the taxable property in the City sufficient to pay the interest hereon when it falls due and also to pay and discharge the principal of this Bond at maturity; that this Bond, together with all other indebtedness of the City outstanding on the date of original issue hereof and on the date of the delivery of the Series 2000 Bonds of this issue to the original purchaser thereof, does not exceed any constitutional or statutory limitation of indebtedness; and that the opinion attached hereto is a true copy of the legal opinion given by Bond Counsel with reference to the Series 2000 Bonds, dated the date of original issuance and delivery of the Series 2000 Bonds.

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	under Uniform Gifts to Minor Act..... (State)
JT TEN --	as joint tenants with right of survivorship and not as tenants in common	

Additional abbreviations may also be used.

ASSIGNMENT

FOR VALUE 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.

Dated: _____

PLEASE INSERT SOCIAL SECURITY
OR OTHER IDENTIFYING NUMBER
OF ASSIGNEE

/ _____ /

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 or enlargement or any change whatsoever.

Signature Guarantee:

Certificate as to Legal Opinion

The following certificate shall be printed on the reverse side of each Bond, following a full, true and correct copy of the text of the legal opinion given at the time of delivery of the Bonds.

We certify that the above is a full, true and correct copy of the legal opinion on the issue of Bonds of the City of Billings, Montana, which includes the within Bond, dated as of the date of delivery and payment for the Bonds.

(Facsimile Signature)
Mayor

(Facsimile Signature)
Interim Director of Finance

(Facsimile Signature)
City Clerk

Section 4. Security Provisions.

4.01. Construction Account; Use of Proceeds. There is hereby created a special account to be designated as the “2000 Construction Account” (the “Construction Account”), to be held and administered by the Director of Finance of the City separate and apart from all other funds of the City. The City appropriates to the Construction Account (a) the proceeds of the sale of the Bonds in the amount of \$1,700,000 and (b) all income derived from the investment of amounts on hand in the Construction Account. The Construction Account shall be used solely to defray expenses of the Project, including but not limited to the transfer to the Debt Service Account described in Section 4.02 of amounts sufficient for the payment of interest and principal, if any, due upon the Bonds prior to the completion and payment of all costs of the Project. Upon completion and payment of all costs of the Project, any remaining proceeds of Bonds in the Construction Account shall be credited and paid to the Debt Service Account.

4.02. Debt Service Account. So long as any of the Bonds are outstanding and any principal thereof or interest thereon unpaid, the Director of Finance shall maintain a separate and special 2000 Debt Service Account (the “Debt Service Account”) to be used for no purpose other than the payment of the principal of and interest on the Bonds. The City irrevocably appropriates to the Debt Service Account: (a) any proceeds of the Bonds in excess of \$1,700,000, (b) all funds to be credited and paid thereto in accordance with the provisions of Section 4.01, (c) any taxes levied in accordance with this resolution, (d) all income derived from the investment of amounts on hand in the Debt Service Account, and (e) such other money as shall be received and appropriated to the Debt Service Account from time to time.

Section 5. Tax Levies. The full faith, credit and taxing powers of the City shall be and are hereby irrevocably pledged to the payment of the Bonds and interest due thereon, and the City shall cause taxes to be levied annually on all taxable property in the City sufficient to

pay the interest on the Bonds when it falls due and to pay and discharge the principal at maturity of each and all of the Bonds as they respectively become due.

Section 6. Arbitrage and Certification of Proceedings.

6.01. Certification. The Mayor, Interim Director of Finance and City Clerk, being among the officers of the City charged with the responsibility for issuing the Bonds, are authorized and directed to execute and deliver to the Purchaser a certification in accordance with the provisions of Section 148 of the Code and the Treasury Regulations, Section 1.148-2(b), stating the facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds which make it reasonable to expect that the proceeds of the Bonds will not be used in a manner that would cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and applicable Treasury Regulations. The certification shall further state that to the best of the knowledge and belief of the certifying officers no other facts, estimates or circumstances exist which would materially change this expectation.

6.02. Covenant. The City covenants and agrees with the holders from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action that would cause the interest on the Bonds to become subject to taxation under the provisions of the Code and the Treasury Regulations applicable thereunder, and covenants and agrees that it will take or cause its officers, employees or agents to take any action within its or their powers to prevent the interest on the Bonds from becoming includable in gross income for purposes of federal income taxation under the Code and applicable Treasury Regulations.

[6.03. Arbitrage Rebate Exemption.

(a) The City hereby represents that the Bonds qualify for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the City represents:

(1) Substantially all (not less than 95%) of the proceeds of the Bonds (except for amounts to be applied to the payment of costs of issuance or representing accrued interest) will be used for local governmental activities of the City.

(2) The aggregate face amount of all "tax-exempt bonds" (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds and current refunding bonds) issued by or on behalf of the City and all subordinate entities thereof during 2000 is not reasonably expected to exceed \$5,000,000. To date in 2000, the City has issued no such tax-exempt bonds, and in the calendar years 1995 through 1999, the average principal amount of such tax-exempt bonds issued by the City in a single calendar year was \$_____.

(b) If notwithstanding the provisions of paragraph (a) of this Section 6.03, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Bonds, the City hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).]

6.04. Information Reporting. The City shall file with the Secretary of the Treasury, not later than August 15, 2000, a statement concerning the Bonds containing the information required by Section 149(e) of the Code.

Section 7. Defeasance.

7.01. 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 Holders of such Bonds shall cease.

7.02. Maturity. The City may discharge its liability with reference to all 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.

7.03. Redemption. The City may also discharge its liability with reference to any prepayable 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.

7.04. 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 securities which are general obligations of the United States or securities of United States agencies which are 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.

Section 8. Designation as Qualified Tax-Exempt Obligations. Pursuant to Section 265(b)(3)(B)(ii) of the Code, the City hereby designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code. The City has not

designated any bonds in 2000 under Section 265(b)(3) other than the Bonds. The City hereby represents that it does not anticipate that the City and all "subordinate entities" of the City will issue in 2000 obligations bearing interest exempt from federal income taxation under Section 103 of the Code (including "qualified 502(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) in an amount greater than \$10,000,000.

Section 9. Continuing Disclosure.

(a) Purpose and Beneficiaries. To provide for the public availability of certain information relating to the Bonds and the security therefor and to permit the original purchaser and other participating underwriters in the primary offering of the 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 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 Bonds. The City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for purposes of identifying the entities in respect of which continuing disclosure must be made. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

If the City fails to comply with any provisions of this Section 9, any person aggrieved thereby, including the Owners of any Outstanding 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 9, 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 9 constitute a default under the Bonds or under any other provision of this resolution.

As used in this Section 9, "Owner" or "Bondowner" means, in respect of a 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 Bond, any person or entity which (i) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, such Bond (including persons or entities holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of the Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in subsection (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(1) on or before 270 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 1999, the following financial information and operating data in respect of the City (the "Disclosure Information"):

(A) 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 of Montana, 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 fiscal year then ended, showing in comparative form such figures for the preceding fiscal year of the City, 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 Montana 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 fiscal officer of the City; and

(B) To the extent not included in the financial statements referred to in paragraph (A) hereof, 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:

(1) updated figures for the then current fiscal year to include general obligation bonds outstanding, market valuation, taxable valuation, estimated City population, and debt capacity;

(2) a description of any additional borrowing of the City;

(3) tax collection figures for the ten most recent completed fiscal years in format similar to the table set forth in the section "Property Tax Collections" of the Official Statement, dated March 20, 2000; and

(4) a list of the major taxpayers of the City for the then current fiscal year in format similar to the table set forth in the section "Major Taxpayers

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 subsection (c) or the SEC. If the document incorporated by reference is a final official statement, it must 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 City 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 (3) hereof), 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 9 is amended as permitted by this paragraph (b)(1) or subsection (d), 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.

(2) In a timely manner, notice of the occurrence of any of the following events which is a Material Fact (as hereinafter defined):

- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults;
- (C) Unscheduled draws on debt service reserves reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancements reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions or events affecting the tax-exempt status of the security;
- (G) Modifications to rights of security holders;
- (H) Bond calls;
- (I) Defeasances;
- (J) Release, substitution, or sale of property securing repayment of the securities; and

(K) 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 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 Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

(3) In a timely manner, notice of the occurrence of any of the following events or conditions:

- (A) the failure of the City to provide the Disclosure Information required under paragraph (b)(1) at the time specified thereunder;
- (B) the amendment or supplementing of this Section 9 pursuant to subsection (d), together with a copy of such amendment or supplement and any explanation provided by the City under subsection (d)(2);
- (C) the termination of the obligations of the City under this Section 9 pursuant to subsection (d);
- (D) any change in the accounting principles pursuant to which the financial statements constituting a portion of the Disclosure Information or the audited financial statements, if any, furnished pursuant to subsection (b)(2) or (3) are prepared; and
- (E) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in subsection (b) to the following entities by telecopy, overnight delivery, mail or other means, as appropriate:

- (1) the information described in paragraphs (1), (2) and (3) of subsection (b), 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 of Montana as contemplated by the Rule (the "State Depository"), if any;
- (2) the information described in paragraphs (4) and (5) of subsection (b), to the Municipal Securities Rulemaking Board and to the State Depository, if any; and

(3) the information described in subsection (b), to any rating agency then maintaining a rating of the Bonds and, at the expense of such Bondowner, to any Bondowner who requests in writing such information, at the time of transmission under paragraphs (1) or (2) of this subsection (c), 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.

(d) Term; Amendments; Interpretation.

(1) The covenants of the City in this Section 9 shall remain in effect so long as any Bonds are Outstanding. Notwithstanding the preceding sentence, however, the obligations of the City under this Section 9 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 9 will not cause participating underwriters in the primary offering of the 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 thereto or amendatory thereof.

(2) This Section 9 (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) hereof) or the consent of the Owners of any 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 City or the type of operations conducted by the City, or (b) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule; (ii) this Section 9 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 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 Bondowners under the Rule.

If the Disclosure Information is so amended, the City agrees to provide, contemporaneously with the effectiveness of such amendment, an explanation of the reasons for the amendment and the effect, if any, of the change in the type of financial information or operating data being provided hereunder.

(3) This Section 9 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.

PASSED by the City Council of Billings, Montana, this 27th day of March,
2000.

Charles J. Tailey
Mayor

Attest: Marita Herold
City Clerk

