

Option 3 – Replacing Existing Building

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of City of Billings, Yellowstone County, Montana (the “City”), hereby certify that the attached resolution is a true copy of a Resolution entitled: “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 SEVENTEEN MILLION THREE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$17,340,000.00) FOR THE PURPOSE OF PAYING COSTS OF DESIGNING, CONSTRUCTING AND EQUIPPING A NEW LIBRARY BUILDING IN REPLACEMENT OF THE BILLINGS PARMLY 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 “Resolution”), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on November 23, 2009, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

I further certify that, upon vote being taken on the Resolution at said meeting, the following Council Members voted in favor thereof: _____; voted against the same: _____; abstained from voting thereon: _____; or were absent: _____.

WITNESS my hand and seal officially this _____ day of November, 2009.

(SEAL)

City Clerk

RESOLUTION NO. _____

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 SEVENTEEN MILLION THREE HUNDRED FORTY THOUSAND AND NO/100 DOLLARS (\$17,340,000.00) FOR THE PURPOSE OF PAYING COSTS OF DESIGNING, CONSTRUCTING AND EQUIPPING A NEW LIBRARY BUILDING IN REPLACEMENT OF THE BILLINGS PARMLY 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 or town is authorized pursuant to Section 7-7-4221, M.C.A., to issue general obligation bonds pledging the general credit of the City for the purpose of acquiring land for and designing and erecting public buildings, upon approval of the electorate of the city or town, provided that such indebtedness will not cause the total indebtedness of the city to exceed 2.5% of the total assessed valuation of taxable property of the city, determined as provided in Section 15-8-111, M.C.A., ascertained by the last assessment for state and county taxes. A city council is authorized pursuant to Section 7-7-4223, M.C.A., 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. The City, based on the recommendations of the Library Board and public input, has proposed that the City issue general obligation bonds to pay for the costs of designing, constructing and equipping a new library building in replacement of the Billings Parmlly Library owned by the City and to make related improvements (the “Project”).

1.03. Estimated Cost. The estimated costs of the Project and costs associated with the sale and issuance of the Bonds are Eighteen Million Three Hundred Forty Thousand Dollars (\$18,340,000.00). Costs of the Project in excess of the proceeds of the bonds are expected to be paid from cash reserves and other sources available to or obtained by the City.

1.04. Debt Limitation. The Council has determined that the issuance of general obligation bonds up to the total aggregate amount of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) will not cause the City to exceed its general statutory indebtedness limitation, which in November 2009, is calculated to be \$[97,242,227].

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 \$17,340,000 general obligation bonds for the Project. Based on the current taxable valuation of the City, it is estimated that [7.0] additional mills per year would be needed to pay the principal of and interest on the Bonds over a 20 year period, assuming a [3.70]% 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 Project, 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 bonds.

1.07. Bonds. It is the judgment of the Council that the aggregate sum of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) in bonds will be necessary to carry out the purposes set forth above. It is also the judgment and determination of the Council that each such series of bonds will be payable during a term not to exceed twenty (20) years.

Section 2. Calling of the Election. The City Council of the City hereby calls and directs a special city election to be held on March [___], 2010, to be conducted in accordance with the provisions of Title 13, Chapter 19, Parts 1-3, M.C.A. (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 Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), 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 Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 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 February [___], 2010, 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, February [__], 2010 through March [__], 2010.

On Election Day, March [__], 2010, 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 March [__], 2010.

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 February [__], 2010; or

(b) make a written request prior to noon on February [__], 2010, 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 February [__], 2010.

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
MARCH [__], 2010

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 Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), 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 Parnly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

- GENERAL OBLIGATION BONDS — YES
- GENERAL OBLIGATION BONDS — NO

Section 7. 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.

Section 8. Reimbursement Expenditures.

(a) The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the City for project expenditures paid by the City prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the “Regulations”) require that the City adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the “small issuer” exception from the arbitrage rebate requirement) in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the bonds.

(b) Other than (i) expenditures to be paid or reimbursed from sources other than the bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a “de minimus” amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the project have been paid by the City before the date 60 days before the date of adoption of this resolution.

(c) The City reasonably expects to reimburse the expenditures made for costs of the project out of the proceeds of bonds up to an estimated maximum aggregate principal amount of Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00) after the date of payment of all or a portion of the costs of the project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) As of the date hereof, there are no City funds reserved, allocated on a long-term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long-term basis or otherwise set aside) to provide permanent financing for the expenditures related to the project, other than pursuant to the issuance of the bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the City’s budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

(e) The City’s financial officer shall be responsible for making the “reimbursement allocations” described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the bonds to reimburse the source of temporary financing used by the City to make prior payment of the costs of the project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the bonds or the project and shall specifically identify the actual original expenditure being reimbursed.

PASSED by the City Council of Billings, Montana, this 23rd day of November, 2009.

CITY OF BILLINGS, MONTANA

Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

NOTICE OF GENERAL OBLIGATION BOND ELECTION

City of Billings, Montana

March [__], 2010

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 November 23, 2009, a special city election of the registered voters of the City will be held on March [__], 2010, 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 Seventeen Million Three Hundred Forty Thousand And No/100 Dollars (\$17,340,000.00), 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 Parmly Library, related improvements, and costs associated with the sale and issuance of the bonds; and authorizing the levy of approximately 7.0 additional mills over the City Charter limit in an amount sufficient to pay principal of and interest on the bonds?

Costs of the Project in excess of the proceeds of the bonds, if any, are expected to be paid from cash reserves and other sources available to or obtained by the City.

The election will be conducted solely by mail ballot. Ballots will be mailed to all eligible registered voters in the City on February [__], 2010, 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, February [__], 2010 through March [__], 2010.

On Election Day, March [__], 2010, 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 March [__], 2010.

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 February [__], 2010; or

(b) make a written request prior to noon on February [__], 2010, 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 February [__], 2010.

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 ____ day of November, 2009.

City Clerk

Publish: _____
