

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$4,270,000 STORM SEWER REVENUE BONDS, SERIES 2013; AUTHORIZING THE SALE AND PRESCRIBING THE FORMS AND TERMS THEREOF AND THE SECURITY THEREFOR" (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 meeting on October 28, 2013, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand officially this 28th day of October, 2013.

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

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[Not a part of this Resolution; for convenience of reference only.]

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RESOLUTION NO. \_\_\_\_\_

RESOLUTION RELATING TO \$4,270,000 STORM SEWER REVENUE BONDS,  
SERIES 2013; AUTHORIZING THE SALE AND PRESCRIBING THE FORMS AND  
TERMS THEREOF AND THE SECURITY THEREFOR

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

Section 1. Definitions, Authorizations and Findings.

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

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

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

Additional Bonds shall mean any Bonds issued pursuant to Sections 4.01 through 4.03.

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

Bond Register shall mean the register maintained for the purpose of registering the ownership, transfer and exchange of the Bonds of any series.

Bonds shall mean the Series 2013 Bonds and any Additional Bonds.

Business Day shall mean, with respect to the Bonds of any series, any day other than a Saturday, Sunday or other day on which the Registrar for such series of Bonds is not open for business.

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

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

Construction Account shall mean the account created by Section 5.02.

Council shall mean the City Council of the City or any successor governing body thereof.

Debt Service Account shall mean the account created by Section 5.04.

Defeasance Obligations shall mean obligations for payment of the principal of and interest on which the United States has pledged its full faith and credit and which are not subject to redemption or prepayment other than at the option of the holder thereof.

Exempt Entities shall mean the City General Fund, the Public Safety Fund, the Parmly Billings Library, and MET Transit.

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

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

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

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

Operating Account shall mean the account created by Section 5.03.

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

Original Purchaser shall mean, with respect to any series of Bonds, the Person who purchases such series of Bonds from the City when first issued. The Original Purchaser of the Series 2013 Bonds is Piper Jaffray & Co., Denver, Colorado.

Outstanding shall mean, with reference to Bonds, as of the date of determination, all Bonds theretofore issued and delivered under this Resolution except:

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

(ii) Bonds and portions of Bonds for whose payment or redemption money or Defeasance Obligations (as provided in Section 10.04) shall have been theretofore deposited in trust for the Owners of such Bonds; provided, however, that if such Bonds are to be redeemed, notice of such redemption shall have been duly given pursuant to this

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

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

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

Owner shall mean, with respect to any Bond, the Person in whose name such Bond is registered in the Bond Register.

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

Principal and Interest Requirements shall mean, with respect to any Bonds and for any Fiscal Year or other specified period, the amount required to pay the principal of and interest on such Bonds during such Fiscal Year or other period, determined on the assumption that each Serial Bond is to be paid on its Stated Maturity and each Term Bond is to be paid on the Sinking Fund Payment Dates according to the mandatory redemption requirements established for such Term Bond pursuant to this Resolution or any Supplemental Resolution.

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

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

Rebate Account shall mean the account created by Section 5.09.

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

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

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

Registrar shall mean the Person, if any, appointed by the City to act as bond registrar, transfer agent and paying agent for a series of Bonds. With respect to the Series 2013 Bonds, the Registrar shall be appointed as set forth in Section 3.05.

Repair and Replacement Account shall mean the account created by Section 5.07.

Reserve Account shall mean the account created by Section 5.05.

Reserve Requirement shall mean, as of the date of calculation, an amount equal to the maximum Principal and Interest Requirements on Outstanding Bonds for the then current or any future Fiscal Year.

Resolution shall mean this resolution as originally adopted or as it may from time to time be amended or supplemented pursuant to the applicable provisions hereof.

Revenues shall mean all revenues and receipts from rates, fees, charges and rentals imposed for the availability, benefit and use of the System, and from penalties and interest thereon, and from any sales of property which is a part of the System and all income received from the investment of such revenues and receipts, including interest earnings on the Operating Account, the Reserve Account, the Repair and Replacement Account and the Surplus Account, and excluding the proceeds of any grant or loan from the State or the United States, and any investment income thereon, to the extent such exclusion is a condition to such grant or loan.

Serial Bonds shall mean Bonds which are not Term Bonds.

Series 2013 Bonds shall mean the City's Storm Sewer Revenue Bonds, Series 2013, issued in the original aggregate principal amount of \$4,270,000.

Sinking Fund Payment Date shall mean a date set forth in any applicable provision of this Resolution or a Supplemental Resolution for the making of a mandatory principal payment for the redemption of a Term Bond.

State shall mean the State of Montana.

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

Storm Sewer System Fund shall mean the fund created in Section 5.01.

Subordinate Obligations shall mean bonds, notes or other obligations of indebtedness of the City payable from the Subordinate Obligations Account and issued in accordance with Section 4.04.

Subordinate Obligations Account shall mean the account created by Section 5.06.

Supplemental Resolution shall mean any resolution supplemental to this Resolution adopted pursuant to Section 9.

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

2013 Project means the facilities, improvements and activities financed, refinanced or the cost of which is being reimbursed to the City with proceeds of the Series 2013 Bonds, described in Exhibit A hereto.

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

1.02. Rules of Construction. Unless the context otherwise requires or except as otherwise expressly provided:

(a) All references in this Resolution to designated sections and other subdivisions are to the designated sections and other subdivisions of this Resolution as originally adopted.

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

(c) The terms defined in this Resolution include the plural as well as the singular.

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

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

(f) “Or” is not intended to be exclusive, but is intended to contemplate or encompass one or more or all of the terms or alternatives conjoined.

1.03. Authorization. Under the Act, the City is authorized to issue and sell its revenue bonds payable during a term not exceeding forty years from their date of issue, to provide funds for the reconstruction, improvement, betterment and extension of a storm sewer system; provided that the bonds and the interest thereon are to be payable solely out of the income and revenues to be derived from rates, fees and charges for the services, facilities and commodities furnished by such storm sewer system, and are not to create any obligation of the City for the payment of which taxes may be levied except to pay for services provided by the storm sewer system to the City.

1.04. 2013 Project. After investigation of the facts and as authorized by the Act, this Council has determined it to be necessary and desirable and in the best interests of the City to acquire and construct the 2013 Project. The estimated costs of the 2013 Project, including engineering and financing costs, are presently estimated to be \$4,504,177.90, and consist of the following items:

Construction Costs	\$4,057,132.90
Costs of Issuance	80,000.00
Underwriter's Discount	36,295.00
Deposit to Reserve Account	330,750.00
<u>Total</u>	<u>\$4,504,177.90</u>

Costs of the 2013 Project in excess of the proceeds of the Series 2013 Bonds shall be paid from Revenues of the System available therefor.

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

(a) The City is authorized under the Act to charge just and equitable rates, charges and rentals for all services directly or indirectly furnished by the System, and to pledge and appropriate to the payment of the Bonds the revenues to be derived from the operation of the System, including improvements, betterments or extensions thereof hereafter constructed or acquired.

(b) The Net Revenues to be produced by such rates, charges and rentals during the term of the Series 2013 Bonds will be sufficient to pay the principal of and interest when due on the Series 2013 Bonds, to create and maintain reasonable reserves therefor, to pay the reasonable and ordinary costs of operating and maintaining the System and to provide an adequate allowance for replacement and repair, as herein prescribed. No other bonds or indebtedness are outstanding that are payable from the Revenues of the System.

(c) It is in the best interests of the City and its residents to issue and sell the Series 2013 Bonds to finance the acquisition and construction of the 2013 Project as provided in this Resolution.

1.06. Authorization and Sale of Series 2013 Bonds. Pursuant to Resolution No. 13-19276 adopted June 10, 2013, as amended by Resolution No. 13-19320, adopted October 15, 2013 (as so amended, the "Parameters Resolution"), this Council determined that it is in the best interests of the City to issue its Series 2013 Bonds pursuant to a negotiated sale, as authorized by Montana Code Annotated, Section 17-5-117, in order to pay all or a portion of the costs of the 2013 Project, to fund a deposit to a debt service reserve account for the Series 2013 Bonds and to pay costs of issuance of the Series 2013 Bonds. Pursuant to the Parameters Resolution, this Council authorized the negotiated sale of the Series 2013 Bonds to the Original Purchaser and authorized the City Administrator and the City Finance Director to enter into a Bond Purchase Agreement with the Original Purchaser (the "Bond Purchase Agreement"). Pursuant to the Bond Purchase Agreement, dated as of October 23, 2013, the Original Purchaser agreed to purchase the Series 2013 Bonds at the aggregate purchase price of \$4,467,882.90 (representing the par amount of the Series 2013 Bonds, less Underwriter's compensation of \$36,295.00 plus a net reoffering premium of \$234,177.90), subject to the terms and conditions of the Bond Purchase Agreement and this Resolution. The net interest cost of the Series 2013 Bonds is 4.056821%. The sale of the Bonds to the Original Purchaser is hereby ratified and confirmed.

1.07. Application of Proceeds of Series 2013 Bonds. The City shall deposit the proceeds of the sale of the Series 2013 Bonds as follows: (i) deposit a sufficient amount to the Reserve Account as to cause the balance therein to equal the Reserve Requirement giving effect to the issuance of the Series 2013 Bonds; and (ii) deposit the balance of the proceeds of the Series 2013 Bonds in the Construction Account to be used to pay costs of the 2013 Project and costs of issuance of the Series 2013 Bonds.

1.08. Recitals. All acts, conditions and things required by the Constitution and laws of the State to be done, to exist, to happen and to be performed prior to the issuance of the Series 2013 Bonds have been done, do exist, have happened, and have been performed in due time, form and manner, wherefore it is now necessary for this Council to establish the form and terms of the Series 2013 Bonds, to provide for the security thereof and to issue the Series 2013 Bonds forthwith.

## Section 2. The Bonds.

2.01. General Title. The general title of the Bonds of all series shall be “Storm Sewer Revenue Bonds,” with appropriate additions for refunding or Subordinate Obligations and to distinguish Bonds of each series from Bonds of each other series.

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

The Bonds may be issued in series as from time to time authorized by the City.

The Bonds are special, limited obligations of the City. The Bonds are not general obligations of the City and neither the general credit nor the taxing power of the City, Yellowstone County or the State is pledged to the payment of the Bonds or the interest thereon. Principal of, premium, if any, and interest on the Bonds (except to the extent expressly payable out of proceeds of the Bonds) are payable solely from the Net Revenues and funds on deposit in the Storm Sewer System Fund, as provided in Section 5. Yellowstone County and the State shall in no event be liable for the payment of the principal of, premium, if any, or interest on the Bonds or the performance of any pledge of any kind whatsoever that may be undertaken by the City with respect thereto. Neither the Bonds nor any of the agreements or obligations of the City contained herein or therein shall be construed to constitute an indebtedness of the City, Yellowstone County or the State within the meaning of any constitutional or statutory provisions whatsoever.

If any Stated Maturity, Redemption Date or Sinking Fund Payment Date shall be on a day which is not a Business Day, then payment of principal of, premium, if any, or interest due on such day may be made on the next succeeding Business Day, with the same force and effect as if made on such Stated Maturity, Redemption Date or Sinking Fund Payment Date (whether or not such next succeeding Business Day occurs in a succeeding month), and no interest shall accrue for the intervening period.

2.03. Terms of a Particular Series. Each series of Bonds (except the Series 2013 Bonds, which are created by Section 3) shall be created by a Supplemental Resolution and pursuant to

Section 4. The City may, at the time of the creation of any series of Bonds or at any time thereafter make, and the Bonds of that series may also contain, provision for a sinking, amortization, improvement or other analogous fund. All Bonds of the same series shall be substantially identical except as to denomination and the differences specified herein or in a Supplemental Resolution between interest rates, Stated Maturities and redemption provisions.

2.04. Form and Denominations. The form of the Bonds (other than the Series 2013 Bonds, as to which specific provision is made in Section 3) shall be established by the Supplemental Resolution creating such series.

The Bonds of any series shall be issuable as fully registered Bonds, in such denominations as shall be provided in the Supplemental Resolution creating such series (other than the Series 2013 Bonds, as to which specific provision is made in Section 3). In the absence of any such provision with respect to the Bonds of any particular series, Bonds shall be in denominations of \$5,000 or any integral multiple thereof, of single Stated Maturities.

2.05. Execution and Delivery. Each Bond shall be executed on behalf of the City by the officials of the City specified in a Supplemental Resolution (other than the Series 2013 Bonds, as to which specific provision is made in Section 3). The signature of any official may be printed, engraved or lithographed facsimiles thereof, if permitted by applicable law. Bonds bearing the manual or facsimile signatures of individuals who were at any time the proper officials of the City shall bind the City, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the delivery of such Bonds or did not hold such offices at the date of such Bonds.

At any time and from time to time, the City may deliver Bonds executed by the proper officers of the City to the Registrar for authentication, and the Registrar shall authenticate and deliver such Bonds as specified in a Supplemental Resolution (other than the Series 2013 Bonds, as to which specific provision is made in Section 3).

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

### Section 3. Bond Terms, Execution and Delivery.

3.01. Term of Series 2013 Bonds. The Series 2013 Bonds shall be designated "Storm Sewer Revenue Bonds, Series 2013." The Series 2013 Bonds shall be in denominations of \$5,000 or any integral multiple thereof, of single Stated Maturities. The Series 2013 Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in the years and amounts listed below, and the Series 2013 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:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2014	\$ 100,000	3.000%
2015	160,000	3.000
2016	165,000	3.000
2017	170,000	3.000
2020*	540,000	3.000
2023*	585,000	3.000
2024	205,000	4.000
2025	215,000	4.000
2026	225,000	4.000
2028*	480,000	5.000
2033*	1,425,000	5.000

\*Term Bonds subject to mandatory sinking fund redemption as set forth in Section 3.07(b) below.

Interest on the Series 2013 Bonds shall be calculated on the basis of a year of 360 days composed of twelve 30-day months.

3.02. Registered Form, Interest Payment Dates. The Series 2013 Bonds shall be issuable only in fully registered form, and the ownership of the Series 2013 Bonds shall be transferred only upon the Bond Register of the City hereinafter described. The interest on the Series 2013 Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2014. Interest on the Series 2013 Bonds shall be payable to the Owners thereof as of the close of business on the 15th 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 Series 2013 Bond shall be payable by check or draft issued by the Registrar described herein.

3.03. Dated Date. Each Series 2013 Bond shall be originally dated as of November 12, 2013, and upon authentication of any Series 2013 Bond the Registrar shall indicate thereon the date of such authentication.

3.04. Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (the "Registrar"). This Section 3.04 shall establish a system of registration for the Series 2013 Bonds as defined in the Model Public Obligations Registration Act of Montana, Montana Code Annotated, Title 17, Chapter 5, Part 11, as amended (the "Registration 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 corporate trust office a Bond Register in which the Registrar shall provide for the registration of

ownership of Series 2013 Bonds and the registration of transfers and exchanges of Series 2013 Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Series 2013 Bonds. Upon surrender to the Registrar for transfer of any Series 2013 Bond duly endorsed by the Owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Owner thereof or by an attorney duly authorized by the Owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Series 2013 Bonds of the same series and a like aggregate principal amount, interest rate and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Series 2013 Bond or portion thereof selected or called for redemption.

(c) Exchange of Series 2013 Bonds. Whenever any Series 2013 Bond is surrendered by the Owner for exchange, the Registrar shall authenticate and deliver one or more new Series 2013 Bonds of the same series and a like aggregate principal amount, interest rate and maturity, as requested by the Owner or the Owner's attorney in writing.

(d) Cancellation. All Series 2013 Bonds surrendered upon any transfer or exchange shall be promptly cancelled by the Registrar and thereafter disposed of as directed by the City.

(e) Improper or Unauthorized Transfer. When any Series 2013 Bond is presented to the Registrar for transfer, the Registrar may refuse to transfer the same until it is satisfied that the endorsement on such Series 2013 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 Series 2013 Bond is at any time registered in the Bond Register as the absolute owner of such Series 2013 Bond, whether such Series 2013 Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such Series 2013 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 of the City upon such Series 2013 Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Series 2013 Bonds (except for an exchange upon the partial redemption of a Series 2013 Bond), the Registrar may impose a charge upon the Owner thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Series 2013 Bonds. In case any Series 2013 Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Series 2013 Bond of like amount, number, maturity date and tenor in

exchange and substitution for and upon cancellation of any such mutilated Series 2013 Bond or in lieu of and in substitution for any such Series 2013 Bond lost, stolen or destroyed, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Series 2013 Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Series 2013 Bond was lost, stolen or destroyed, and of the ownership thereof, and upon furnishing to the Registrar of an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the City and the Registrar shall be named as obligees. All Series 2013 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, lost, stolen or destroyed Series 2013 Bond has already matured or such Series 2013 Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2013 Bond prior to payment.

3.05. Appointment of Initial Registrar. The City hereby appoints U.S. Bank National Association, in Seattle, Washington, to act as Registrar. The City reserves the right to appoint a successor Registrar, as authorized by the Registration Act, but the City agrees to pay the reasonable and customary charges of the Registrar for the services performed. Upon merger or consolidation of a bank or trust company that is acting as the Registrar, if the resulting corporation is a bank or trust company authorized by law to conduct such business, such corporation shall be authorized to act as successor Registrar. The City reserves the right to remove any Registrar upon 30 days' notice and upon the appointment of a successor Registrar, in which event the predecessor Registrar shall deliver all cash and Series 2013 Bonds in its possession as Registrar to the successor Registrar and shall deliver the Bond Register to the successor Registrar.

3.06. Optional Redemption. The Series 2013 Bonds with Stated Maturities on or after July 1, 2024 are subject to redemption on July 1, 2023 and any date thereafter, at the option of the City, in whole or in part, and if in part from such Stated Maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a Redemption Price equal to the principal amount thereof and interest accrued to the Redemption Date, without premium.

The Redemption Date and the principal amount of the Series 2013 Bonds to be redeemed shall be fixed by the City Finance Director who shall give notice thereof to the Registrar at least 35 days prior to the Redemption Date or such lesser period as the Registrar accepts. The Registrar, at least 30 days prior to the designated Redemption Date, shall cause notice of redemption to be mailed, by first class mail, or by other means required by the securities depository, to the Owners of each Series 2013 Bond to be redeemed at their addresses as they appear on the Bond Register, but no defect in or failure to give such mailed notice shall affect the validity of proceedings for the redemption of any Series 2013 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 Series 2013 Bonds to be redeemed and the place at which the Series 2013 Bonds are to be surrendered for payment, which is the principal corporate trust office of the Registrar. Official notice of redemption having been given as aforesaid, the Series 2013 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 Series 2013 Bonds or portions thereof shall cease to bear interest.

3.07. Mandatory Sinking Fund Redemption. The Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner it deems fair, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund <u>Payment Date</u>
2018	\$175,000
2019	180,000
2020*	185,000

\*Final maturity.

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund <u>Payment Date</u>
2021	\$190,000
2022	195,000
2023*	200,000

\*Final maturity.

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund <u>Payment Date</u>
2027	\$235,000
2028*	245,000

\*Final maturity.

Sinking Fund Payment Date (July 1)	Principal Amount on Sinking Fund Payment Date
2029	\$255,000
2030	270,000
2031	285,000
2032	300,000
2033*	315,000

\*Final maturity.

The principal amounts of the Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of any such Series 2013 Bonds theretofore redeemed at the option of the City and not previously applied to reduce the principal amount of such Series 2013 Bonds on a Sinking Fund Payment Date.

If the Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 are not previously purchased by the City in the open market or prepaid, \$185,000, \$200,000, \$245,000 and \$315,000, respectively, in principal amount of such Series 2013 Bonds would remain to mature in 2020, 2023, 2028 and 2033. The principal amount of the Series 2013 Bonds required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Series 2013 Bonds theretofore redeemed at the option of this Council and as to which the City has not previously applied amounts to reduce the principal amount of such Series 2013 Bonds on a Sinking Fund Payment Date.

3.08. Execution and Delivery. The Series 2013 Bonds shall be forthwith prepared for execution under the direction of the City Clerk and shall be executed on behalf of the City by the signatures of the Mayor, the City Finance Director and the City Clerk, provided that said signatures may be printed, engraved or lithographed facsimiles thereof. The seal of the City need not be imprinted on or affixed to any Series 2013 Bond. When the Series 2013 Bonds have been so executed by said City officers, they shall be registered by the City Finance Director in accordance with Montana Code Annotated, Section 7-7-4432, as amended. Notwithstanding such execution, no Series 2013 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 Series 2013 Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Series 2013 Bonds need not be signed by the same representative. The executed certificate of authentication on each Series 2013 Bond shall be conclusive evidence that it has been authenticated and delivered under this Resolution. When the Series 2013 Bonds have been fully executed and authenticated, they shall be delivered by the Registrar to the Original Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

3.09. Securities Depository for the Series 2013 Bonds.

(a) For purposes of this Section 3.09, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2013 Bond, the person in whose name such Series 2013 Bond is recorded as the beneficial owner of such Series 2013 Bond by a Participant on the records of such Participant, or such person’s subrogee.

“Cede & Co.” shall mean Cede & Co., the nominee of DTC, and any successor nominee of DTC with respect to the Series 2013 Bonds.

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

“Participant” shall mean any broker-dealer, bank or other financial institution for which DTC holds Series 2013 Bonds as securities depository.

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

(b) The Series 2013 Bonds of each series shall be initially issued as separately authenticated fully registered Series 2013 Bonds, and one Series 2013 Bond shall be issued in the principal amount of each stated maturity of each series of the Series 2013 Bonds. Upon initial issuance, the ownership of such Series 2013 Bonds shall be registered in the Bond Register in the name of Cede & Co., as nominee of DTC. The Registrar and the City may treat DTC (or its nominee) as the sole and exclusive Owner of the Series 2013 Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2013 Bonds, selecting the Series 2013 Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to Owners of Series 2013 Bonds under this Resolution, registering the transfer of Series 2013 Bonds, and for all other purposes whatsoever; and neither the Registrar nor the City shall be affected by any notice to the contrary. Neither the Registrar nor the City shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Series 2013 Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond Register as being an Owner, with respect to the accuracy of any records maintained by DTC or any Participant, with respect to the payment by DTC or any Participant of any amount with respect to the principal of or interest on the Series 2013 Bonds, with respect to any notice which is permitted or required to be given to Owners under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Series 2013 Bonds, or with respect to any consent given or other action taken by DTC as Owner of the Series 2013 Bonds. So long as any Series 2013 Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Series 2013 Bond, and shall give all notices with respect to such Series 2013 Bond, only to Cede & Co. in accordance with the Representation Letter, and all such payments shall be valid and effective to fully satisfy and discharge the City’s obligations with respect to the principal of and interest on the Series 2013 Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Series 2013

Bond for each separate stated maturity evidencing the obligation of the City to make payments of principal and interest. Upon delivery by DTC to the Registrar of written notice to the effect that DTC has determined to substitute a new nominee in place of Cede & Co., the Series 2013 Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the City determines to discontinue the book-entry-only system for one or both series of Series 2013 Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2013 Bonds of such series in the form of certificates. In such event, the Series 2013 Bonds of such series will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2013 Bonds of one or both series at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2013 Bonds of such series will be transferable in accordance with paragraph (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by Owners and Beneficial Owners and payments on the Series 2013 Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under this Resolution.

(e) In the event that any transfer or exchange of Series 2013 Bonds of a series is permitted under paragraph (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2013 Bonds to be transferred or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Resolution. In the event Series 2013 Bonds in the form of certificates are issued to Owners other than Cede & Co., its successor as nominee for DTC as Owner of all the Series 2013 Bonds, or another securities depository as Owner of all the Series 2013 Bonds, the provisions of this Resolution shall also apply to all matters relating thereto, including, without limitation, the preparation of such Series 2013 Bonds in the form of Series 2013 Bond certificates and the method of payment of principal of and interest on such Series 2013 Bonds in the form of Series 2013 Bond certificates.

3.10. Form of Series 2013 Bonds. The Series 2013 Bonds shall be prepared in substantially the form set forth in Exhibit B hereto and by this reference are made a part hereof.

#### Section 4. Additional Bonds.

4.01. General Provisions. In addition to the Series 2013 Bonds, whose issuance and delivery is provided for in Section 3, Additional Bonds may at any time and from time to time be issued, sold and delivered by the City but only upon compliance with the conditions of Sections 4.02 and 4.03, whichever may be applicable, and upon filing with the City Clerk the following:

(a) A Supplemental Resolution authorizing the issuance of such series of Additional Bonds and the sale thereof to the Original Purchaser or Purchasers named therein for the purchase price set forth therein.

(b) A certificate executed by the Mayor and the City Finance Director stating that upon the issuance of such series of Additional Bonds, no default hereunder has occurred and is continuing which would not be cured upon the issuance of such series of Additional Bonds and application of the proceeds thereof, and that on the date of issuance of such Additional Bonds the balance in the Reserve Account equals the Reserve Requirement, calculated assuming the issuance of such Additional Bonds (and the defeasance of any Bonds to be defeased by application of the proceeds of the Additional Bonds on the date of issuance thereof).

(c) An opinion of Bond Counsel (who may rely on factual representations of the City and which opinion may be qualified by customary qualifications and exceptions) stating that:

(i) all conditions precedent provided for in this Resolution relating to the issuance and delivery of such series of Additional Bonds have been complied with, including any conditions precedent specified in this Section 4.01; and

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

Any Additional Bonds shall be dated, shall bear interest at a rate or rates not exceeding the maximum rate, if any, permitted by law, shall have Stated Maturities, and may be subject to redemption at such times and prices and on such terms and conditions, all as may be provided by the Supplemental Resolution authorizing their issuance. All Additional Bonds issued pursuant to Sections 4.02 and 4.03 shall be payable and secured ratably and equally and on a parity with the Series 2013 Bonds and any Additional Bonds theretofore issued, entitled to the same benefits and security of this Resolution.

4.02. Additional Bonds to Pay the Cost of Projects. Additional Bonds may be issued under this Section 4.02, at one time or from time to time, subject to the conditions provided in Section 4.01 and this Section 4.02, for the purpose of providing funds, with any other funds available and committed therefor, for paying the cost of one or more Projects and any expenses in connection with such financing.

Before any Additional Bonds shall be issued under this Section 4.02, the City shall adopt a Supplemental Resolution authorizing the issuance of such series of Additional Bonds and fixing the amount and the details thereof, and describing in brief and general terms the Projects to be acquired, constructed, altered or improved and estimating the costs thereof.

In addition, prior to the execution and delivery of any series of Additional Bonds under this Section 4.02, there shall be filed with the City Clerk a certificate executed by the Mayor and the City Finance Director stating that the Net Revenues in the Fiscal Year immediately preceding the issuance of such Additional Bonds were at least equal to 125% of the maximum Principal and Interest Requirements for any complete future Fiscal Year (during the term of the then Outstanding Bonds) with respect to the Outstanding Bonds and the Additional Bonds proposed

to be issued. In determining the Net Revenues available, if the City has approved an increase in the rates, fees, charges and rentals for the benefit and availability of the System and which increase shall become effective no later than the first month following the issuance of the Additional Bonds or if the City has extended the System or added land to the City since the beginning of the preceding Fiscal Year which is benefitted by the System, historical Net Revenues of the System may be adjusted for the preceding Fiscal Year to include Net Revenues which, in the opinion of the Mayor and the City Finance Director, would have been received had such increased rates, fees, charges and rentals been in effect or had such land been in the City throughout the preceding Fiscal Year. In addition, if the Mayor and City Finance Director determine that the Operating Expenses will be increased or reduced because of the proposed Project, the additional annual Operating Expenses shall be added to, or the reduction in annual Operating Expenses shall be subtracted from, the Operating Expenses for the preceding Fiscal Year, as the case may be, in determining Net Revenues for purposes of the first sentence of this paragraph.

4.03. Additional Bonds for Refunding Purposes. Additional Bonds may be issued under this Section 4.03, at one time or from time to time, subject to the conditions provided in Section 4.01 and this Section 4.03, for the purpose of providing funds, with any other funds available and committed therefor, for paying at, or redeeming prior to, their Stated Maturities any Outstanding Bonds, including the payment of any redemption premium thereon and interest which will accrue on such Bonds to any Redemption Date or the Stated Maturities thereof, and any expenses in connection with such financing. Such Additional Bonds shall be designated substantially as the Bonds to be refunded, with the addition of the term “Refunding”.

Before any Additional Bonds shall be issued under this Section 4.03, the City shall adopt a Supplemental Resolution authorizing the issuance of such series of Additional Bonds and fixing the amount and the details thereof, and authorizing the redemption of the Outstanding Bonds to be refunded.

In addition, prior to the execution and delivery of any series of Additional Bonds under this Section 4.03, there shall be filed with the City Clerk:

- (i) such documents as shall be required to show that provisions have been duly made in accordance with this Resolution for the redemption of the Outstanding Bonds to be refunded; and
- (ii) an officer’s certificate to the effect that (a) the proceeds (excluding accrued interest but including any premium) of the Additional Bonds plus any moneys to be withdrawn from the Debt Service Account and/or the Reserve Account for such purpose, together with any other funds deposited for such purpose, will be not less than an amount sufficient to pay the Redemption Price on the Outstanding Bonds to be refunded, or (b) from such proceeds there shall be deposited in trust, Defeasance Obligations which do not permit the redemption thereof at the option of the issuer, the principal of and the interest on which when due and payable (or redeemable at the option of the holder thereof) will provide, together with any other moneys which shall have been deposited in trust

irrevocably for such purpose, but without reinvestment, sufficient moneys to pay such principal, redemption premium and interest.

If Additional Bonds are issued to refund Subordinate Obligations issued pursuant to Section 4.04, the conditions for the issuance of Additional Bonds pursuant to Section 4.02 be satisfied in lieu of this Section 4.03.

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

4.05. Grant Anticipation Notes; Bond Anticipation Notes. The City may from time to time issue notes in anticipation of receipt of grant funds (“Grant Anticipation Notes”), or in anticipation of the issuance of Additional Bonds (“Bond Anticipation Notes”) subject to the following conditions:

- (a) the Additional Bonds in anticipation of which the Bond Anticipation Notes are issued, assuming a maximum rate of interest on such Additional Bonds, shall be authorized to be issued under Section 4.02 or 4.03 (provided that when calculating the debt service coverage requirements set forth in Section 4.02, the City shall use the Stated Maturity of the Additional Bonds and not the Stated Maturity of the Bond Anticipation Notes in such calculation);
- (b) the payment of interest on Grant Anticipation Notes and Bond Anticipation Notes from the Net Revenues shall be subordinated to Outstanding Bonds;
- (c) the principal of the Grant Anticipation Notes shall be payable solely from the receipt of grant funds, and the principal of the Bond Anticipation Notes shall be payable solely from the proceeds of the Additional Bonds, unless the City is unable to sell the Additional Bonds, in which case the Bond Anticipation Notes shall be exchanged for the Additional Bonds on a par-for-par basis; and
- (d) Grant Anticipation Notes and Bond Anticipation Notes shall have Stated Maturities within three years after their date of issue.

## Section 5. Storm Sewer System Fund.

5.01. Bond Proceeds and Revenues Pledged and Appropriated. A special Storm Sewer System Fund is hereby created and shall be maintained as a separate bookkeeping account on the official books of the City until all Bonds and interest and redemption premiums due thereon have been fully paid, or the City’s obligations with reference to such Bonds have been discharged as provided in Section 10. All proceeds of Bonds and all other funds presently on hand derived

from the operation of the System are irrevocably pledged and appropriated to the Storm Sewer System Fund. In addition, there is hereby irrevocably pledged and appropriated to the Storm Sewer System Fund all Revenues and all investment earnings on all funds and accounts within the Storm Sewer System Fund. Within the Storm Sewer System Fund shall be separate accounts designated and described in Sections 5.02 through 5.09, to segregate income and expenses received, paid and accrued for the respective purposes described in those Sections. The Revenues received in the Storm Sewer System Fund shall be apportioned semiannually, commencing no later than December 15, 2013.

5.02. Construction Account. The Construction Account is hereby established as a separate account within the Storm Sewer System Fund. Upon delivery of the Series 2013 Bonds, the City shall credit to the Construction Account, from the proceeds of the Series 2013 Bonds, the sum specified in Section 1.07. The Construction Account shall be used only to pay as incurred and allowed Project costs which under accepted accounting practice are capital costs of Projects authorized in accordance with law, including but not limited to payments due for work and materials performed and delivered under construction contracts, architectural, engineering, inspection, supervision, fiscal and legal expenses, the cost of lands and easements, interest accruing on Bonds during the period of construction of facilities financed thereby and for six months thereafter, if and to the extent that the Debt Service Account is not sufficient for payment of such interest, reimbursement of any advances made from other City funds, and all other expenses incurred in connection with the construction and financing of such Projects including the costs of issuance of the Bonds. To the Construction Account shall be credited as received all proceeds of Bonds issued to finance Projects and any other funds appropriated by the City for an improvement, betterment or extension to the System, and all income received from the investment of the Construction Account. In the event there are insufficient funds in the Debt Service Account to pay principal of and interest on the Bonds, when due, after the transfer of funds to the Debt Service Account required in Section 5.04, any moneys then remaining in the Construction Account shall be transferred to the Debt Service Account for that purpose. Upon completion of a Project, the balance remaining in the Construction Account net of any amounts required to be transferred to the Rebate Account as required in Section 5.09, may be used to pay the cost of other capital improvements to the System but if and to the extent not so used shall be transferred to the Reserve Account to the extent required to establish the Reserve Requirement therein and, to the extent not so required, to the Debt Service Account.

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

Money in the Operating Account shall be used solely for the payment of current Operating Expenses of the System.

5.04. Debt Service Account. The Debt Service Account is hereby established as a separate account within the Storm Sewer System Fund. Upon each semiannual apportionment there shall be credited to the Debt Service Account out of the Net Revenues remaining after the credit to the Operating Account an amount equal to not less than one-sixth of the interest due within the next six months on all Bonds then Outstanding and one-twelfth of the principal, if any, to become due within the next twelve months on all Outstanding Bonds (whether due at Stated Maturity, upon mandatory sinking fund redemption of Term Bonds or otherwise); provided that the City shall be entitled to reduce a semiannual apportionment by the amount of any surplus previously credited and then on hand in the Debt Service Account. Except as provided in Section 5.09, money from time to time held in the Debt Service Account shall be disbursed only to meet payments of principal of and interest on the Bonds (including as interest for this purpose any surcharges, fees, expenses or other charges payable on an ongoing basis and based on the principal amount of a Bond) as such payments become due; provided that on any date when the amount then on hand in the Debt Service Account, plus the amount in the Reserve Account allocable to a series of Bonds, is sufficient with other moneys available for the purpose to pay or discharge all Bonds of that series and the interest accrued thereon in full, it may be used for that purpose. If any payment of principal or interest becomes due when money in the Debt Service Account is temporarily insufficient therefor, to the extent of such deficiency funds shall be advanced to the Debt Service Account out of any funds then on hand in the Reserve Account, the Repair and Replacement Account or the Surplus Account, in that order.

5.05. Reserve Account. The Reserve Account is hereby established as a separate account within the Storm Sewer System Fund. Upon delivery of the Series 2013 Bonds, the City shall credit to the Reserve Account, from the proceeds of the Series 2013 Bonds, the sum specified in Section 1.07. Upon each semiannual apportionment, if the balance in the Reserve Account is less than the Reserve Requirement, all Net Revenues in the Storm Sewer System Fund remaining after the required credit to the Debt Service Account shall be credited to the Reserve Account until the balance therein equals the Reserve Requirement.

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

If the City issues Additional Bonds the City shall, upon issuance of the Additional Bonds, increase the balance in the Reserve Account to the Reserve Requirement, calculated after giving effect to the issuance of such Additional Bonds and the defeasance of any Bonds to be effected upon the issuance of such Additional Bonds.

Except as provided in Section 5.09, money held in the Reserve Account shall be transferred to the Debt Service Account to be used only to pay maturing principal and interest when money within the Debt Service Account is insufficient therefor or to pay or defease a series of Bonds as provided in Section 10.

If the balance in the Reserve Account has not been restored to the Reserve Requirement from transfers of Net Revenues within six months after the balance falls below the Reserve Requirement, the City shall transfer to the Reserve Account from the Surplus Account and then the Repair and Replacement Account, an amount sufficient to restore the balance therein to the Reserve Account.

If at any time (including, but not limited to, any Principal Payment Date and any Redemption Date), the balance in the Reserve Account net of any amounts required to be transferred to the Rebate Account as provided in Section 5.09, exceeds the Reserve Requirement, the City shall transfer such excess to the Debt Service Account to establish the required balance therein.

5.06. Subordinate Obligations Account. Upon the issuance of any Subordinate Obligations as permitted by Section 4.04, there shall be established a Subordinate Obligations Account within the Storm Sewer System Fund. Upon each semiannual apportionment, there shall be credited to the Subordinate Obligations Account, from the Net Revenues remaining after the required credits to the Operating Account, the Debt Service Account and the Reserve Account, such amount as may be required to pay Subordinate Obligations, including reasonable reserves therefor, as provided by any Supplemental Resolution or other instrument. Money on hand in the Subordinate Obligations Account shall be transferred to the Operating Account, the Debt Service Account or the Reserve Account if at any time the balance on hand in any such accounts, after any transfer elsewhere authorized is not sufficient to pay all costs payable therefrom.

5.07. Repair and Replacement Account. The Repair and Replacement Account is hereby established as a separate account within the Storm Sewer System Fund. There shall be set aside and credited, upon each semiannual apportionment, to the Repair and Replacement Account such portion of the Net Revenues, in excess of the current requirements of the Debt Service Account, the Reserve Account and the Subordinate Obligations Account (which portion of the Net Revenues is referred to herein as “surplus revenues”), as the City shall determine to be required for replacement or renewal of worn out, obsolete or damaged properties and equipment thereof. Money in the Repair and Replacement Account shall be used only for the purposes above stated or, if so directed by the Council to pay Operating Expenses, to redeem Bonds which are prepayable according to their terms, for transfer to the Debt Service Account for payment of principal or interest when due thereon as required in Section 5.04, to pay costs of improvements to the System or, if no default is subsisting under this Resolution to redeem Subordinate Obligations which are prepayable by their terms or to pay principal of or interest on Subordinate Obligations when due.

5.08. Surplus Account. The Surplus Account is hereby established as a separate account within the Storm Sewer System Fund. Any amount of the surplus revenues from time to time remaining after the above required applications thereof shall be credited to the Surplus Account, and the moneys from time to time in that account, when not required to restore a current deficiency in the Debt Service Account or Reserve Account as provided in Sections 5.03 and 5.04, may be used for any of the following purposes and not otherwise:

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

No money shall at any time be transferred from the Surplus Account or any other account of the Storm Sewer System Fund to any other fund of the City, nor shall such moneys at any time be loaned to other City funds or invested in warrants, special improvement bonds or other obligations payable from other funds, except as provided in Section 5.10.

5.09. Rebate Account. The Rebate Account is hereby established as a separate account within the Storm Sewer System Fund. The City shall make deposits to and disbursements from the Rebate Account or Subaccounts therein in accordance with a Rebate Certificate, and shall invest the money on hand in the Rebate Account pursuant to the requirements of the Rebate Certificates, and shall deposit income from such investments immediately upon receipt thereof in the Rebate Account.

5.10. Deposit and Investment of Funds. The City Finance Director shall cause all moneys from time to time in the Storm Sewer System Fund to be deposited as received with one or more depository banks duly qualified in accordance with the provisions of Montana Code Annotated, Section 7-6-201, as amended, and shall cause the balances in such accounts, except any part thereof covered by federal deposit insurance, to be secured by the pledge of bonds or securities of the kinds required by law, and no money shall at any time be withdrawn from such deposit accounts except for the purposes of the Storm Sewer System Fund as defined and authorized by this Resolution. The funds to the credit of the Storm Sewer System Fund may be commingled in one or more deposit accounts. The balance on hand in any of the Storm Sewer System Fund may at any time be invested and reinvested in Qualified Investments (as hereinafter defined), maturing and bearing interest payable at the times and in the amounts estimated to be required to provide cash when needed for the purposes of the respective accounts. Income from the investment of the moneys in the various accounts shall be credited thereto. Subject to the provisions of law now or hereafter controlling investment of such funds, money on hand in the

Storm Sewer System Fund may be invested in any of the following “Qualified Investments” but no others:

- (a) direct obligations of or obligations guaranteed by the United States of America;
- (b) bank time deposits or certificates of deposit secured by obligations and securities described in clause (a) above; and
- (c) the short-term investment pool administered by the Board of Investments of the State or any successor investment pool created pursuant to Montana law.

Section 6. 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 participating underwriters in the primary offering of the Bonds to comply with paragraph (b)(5) of Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended (the “Rule”), the City hereby makes the following covenants and agrees, for the benefit of the Owners (as hereinafter defined) from time to time of the outstanding Bonds, to provide annual reports of specified information and notice of the occurrence of certain events to the Municipal Securities Rulemaking Board (“MSRB”) through its Electronic Municipal Market Access system website (“EMMA”), as hereinafter described (the “Disclosure Covenants”). 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.

If the City fails to comply with this Section 6, 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 6, 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. Notwithstanding anything to the contrary contained herein, in no event shall a default under this Section 6 constitute a default under the Bonds or under any other provision of this Resolution.

As used in this Section 6, “Owner” 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 in this Section 6, “Beneficial Owner” means, in respect of a Bond, any person or entity that (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 (ii) 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 paragraph (c) hereof, either directly or indirectly through an agent designated by the City, the following information at the following times:

(i) on or before 365 days after the end of each fiscal year of the City, commencing with the fiscal year ending June 30, 2013, 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 a balance sheet as of the end of such fiscal year and a statement of operations, changes in fund balances and cash flows for the System for the fiscal year then ended, prepared in accordance with generally accepted accounting principles promulgated by the Financial Accounting Standards Board as modified in accordance with the governmental accounting standards promulgated by the Governmental Accounting Standards Board or as otherwise provided under 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 City Finance Director; and

(B) To the extent not included in the financial statements referred to in paragraph (b)(i)(A) hereof, the information of the type set forth below, which information may be unaudited:

(1) a description of any additional borrowing or plans for future financing for the System;

(2) updated figures for collections of storm sewer assessments for the then current fiscal year in format similar to the table “Collections of Storm Sewer Assessments” in the Official Statement;

(3) updated information of any changes in the user rates in a format similar to the table “Storm Sewer Service Charges” in the Official Statement; and

(4) a list of the major System users for the then current fiscal year in format similar to the table “Largest Storm Sewer Charges” in the Official Statement.

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

Any or all of the Disclosure Information may be incorporated, if it is updated as required hereby, by reference from other documents, including official statements, which have been submitted to the MSRB in the manner set forth in paragraph (c) hereof. The

City shall clearly identify in the Disclosure Information in 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 material (as hereinafter defined), 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 6 is amended as permitted by paragraphs (b)(1) or (d) hereof, then the City shall include in the next Disclosure Information to be delivered pursuant to this Section 6, 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.

(ii) In a timely manner not in excess of ten business days, notice of the occurrence of any of the following events:

- (A) principal and interest payment delinquencies;
- (B) non-payment related defaults, if material;
- (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, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB), or other material notices or determinations with respect to the tax status of the Bonds or other material events affecting the tax status of the Bonds;
- (G) modifications to rights of holders of the Bonds, if material;
- (H) bond calls, if material, and tender offers;
- (I) defeasances;
- (J) release, substitution or sale of property securing repayment of the Bonds, if material;
- (K) rating changes;
- (L) bankruptcy, insolvency, receivership, or similar event of the obligated person;
- (M) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the

- termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (N) appointment of a successor or additional trustee or the change of name of a trustee, if material.

An event is “material” if it is an event 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 in this Resolution or information generally available to the public. Notwithstanding the foregoing sentence, an event is also “material” if it is 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.

(iii) 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)(i) hereof at the time specified thereunder;

(B) the amendment or supplementing of this Section 6 pursuant to paragraph (d) hereof, together with a copy of such amendment or supplement and any explanation provided by the City under paragraph (d)(2) hereof;

(C) the termination of the obligations of the City under this Section 6 pursuant to paragraph (d) hereof; and

(D) any change in the fiscal year of the City.

(c) Manner of Disclosure. The City agrees to make available the information described in paragraph (b) hereof to the MSRB via EMMA or in a manner as may be otherwise proscribed by the MSRB consistent with the Rule. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(d) Term; Amendments; Interpretation.

(i) The covenants of the City in this Section 6 shall remain in effect so long as any Bonds are outstanding.

(ii) Notwithstanding paragraph (d)(i) hereof, the Disclosure Covenants (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 under paragraph (b)(iii) 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 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.

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.

(iii) The Disclosure Covenants are entered into to comply with the continuing disclosure provisions of the Rule and should be construed so the undertaking would satisfy the requirements of paragraph (b)(5) of the Rule.

## Section 7. Tax Covenants and Certifications.

7.01. Use of Facilities. The facilities of the System financed in whole or in part with proceeds of the Series 2013 Bonds (the “Financed Facilities”) are and will be owned and operated by the City and used by the City to provide storm sewer system services to members of the general public. No user of the System is granted any concession, license or special arrangement with respect to the System. The City shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Financed Facilities or the System or security for the payment of the Series 2013 Bonds which might cause the Series 2013 Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the “Code”).

7.02. General Covenant. The City covenants and agrees with the Owners from time to time of the Series 2013 Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action which would cause the interest on the Series 2013 Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations (the “Regulations”), and covenants to take any and all actions within its powers to ensure that the interest on the Series 2013 Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

7.03. Arbitrage Certification. The Mayor, the City Finance Director and the City Clerk being the officers of the City charged with the responsibility for issuing the Series 2013 Bonds pursuant to this Resolution, are authorized and directed to execute and deliver to the Original Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Series 2013 Bonds, it is reasonably expected that the proceeds of the Series 2013 Bonds will not be used in a manner that would cause the Series 2013 Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

7.04. Arbitrage Rebate. The City acknowledges that the Series 2013 Bonds are subject to the rebate requirements of Section 148(f) of the Code. The City covenants and agrees to retain such records, make such determinations, file such reports and documents and pay such amounts

at such times as are required under said Section 148(f) and applicable Treasury Regulations to preserve the exclusion of interest on the Series 2013 Bonds from gross income for federal income tax purposes, unless the Series 2013 Bonds qualify for the exception from the rebate requirement under Section 148(f)(4)(B) of the Code and no “gross proceeds” of the Series 2013 Bonds (other than amounts constituting a “bona fide debt service fund”) arise during or after the expenditure of the original proceeds thereof. In furtherance of the foregoing, the Mayor, the City Finance Director and the City Clerk are hereby authorized and directed to execute a Rebate Certificate, substantially in the form to be prepared by Bond Counsel, and the City hereby covenants and agrees to observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof.

7.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than February 15, 2014, a statement concerning the Series 2013 Bonds containing the information required by Section 149(e) of the Code.

#### Section 8. Other Covenants of City.

8.01. General. The City covenants and agrees with the Owners from time to time of all Bonds that the recitals contained in Section 1 are correct; and that until all Bonds are fully discharged as provided in this Resolution, it will continue to hold, maintain and operate the System as a public convenience, free from all liens thereon or on the income therefrom other than the liens herein granted or provided for, and will maintain, expend and account for its Storm Sewer System Fund and the several accounts therein as provided in Section 5, and will not incur a further lien or charge on the income or revenues of the System except upon the conditions and in the manner prescribed in Section 4, and will perform and cause all officers and employees of the City to perform and enforce each and all of the additional covenants and agreements set forth in this Section 8. The City further covenants to cause the System to be properly maintained in good operating condition.

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

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

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

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

(a) Prior to or simultaneous with such mortgage, lease, sale or other disposition, all of the Bonds then Outstanding shall be discharged as provided in Section 10; or

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

8.06. Books and Records. The City will cause proper and adequate books of record and account to be kept showing complete and correct entries of all receipts, disbursements and other transactions relating to the System, the Net Revenues derived from its operation, and the segregation and application of the Net Revenues in accordance with this Resolution, in such reasonable detail as may be determined by the City in accordance with generally accepted accounting practice and principles. It will cause such books to be maintained on the basis of a Fiscal Year.

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

8.08. Handling of Funds. The employees of the City, under the direction and control of the City Finance Director, shall keep books of accounts and collect the rates, charges and rentals for the services and facilities provided by the System and for other money currently receivable on account thereof. All money collected with respect to the System shall be deposited as received with the City Finance Director. The City Finance Director shall be bonded at all times with a surety company authorized to do business in Montana, in the amount of at least \$100,000,

to assure the faithful carrying out of such duties, which requirement may be satisfied by a blanket bond covering other City employees as well as the City Finance Director.

8.09. Rates and Charges. While any Bonds are Outstanding, the rates, charges and rentals for all services and facilities furnished and made available by the System to the City and its inhabitants, and to all other customers shall be reasonable and just, taking into consideration the cost and value of the System and the cost of maintaining and operating it, and the amounts necessary for the payment of all Bonds and the interest accruing thereon and all Subordinate Obligations and the interest accruing thereon, and the proper and necessary allowances for the depreciation of the System. The City does not assess property owned by the Exempt Entities; other than the Exempt Entities, no free service shall be provided to any Person. The City covenants and agrees that the rates, charges and rentals to be charged to all users or beneficiaries of the System, except for the Exempt Entities, shall be maintained and shall be revised whenever and as often as may be necessary, according to schedules such that (i) Revenues for each Fiscal Year will be at least sufficient to pay the principal of and interest on all Bonds payable from the Revenues derived in such Fiscal Year, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current Operating Expenses, to pay the principal of and interest on any Subordinate Obligations and to provide reserves for the repair and replacement of the System, and (ii) Net Revenues for each Fiscal Year commencing after June 30, 2013 will be at least equal to 125% of the maximum Principal and Interest Requirements for all future Fiscal Years during which any Bonds will be Outstanding.

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

The establishment of the percentage of Net Revenues contained in the first paragraph of this Section 8.09 has been deemed necessary in order to sell the Series 2013 Bonds upon terms most advantageous to the City. The excess of Net Revenues over the Principal and Interest Requirements and the Reserve Requirement may be used as authorized in Section 5. The Series 2013 Bonds may be redeemed according to their terms on and after July 1, 2023, and in the estimation of this Council any excess prior to that date of Net Revenues over Principal and Interest Requirements and required maintenance of the Reserve Account will be needed to pay or to provide reserves for payment of replacements, renewals and improvement costs, in order to provide adequate service for the present population and the increase thereof reasonably to be expected; and after that date, any excess not required for such purposes in the judgment of the Council may be used to redeem Bonds and thereby reduce the interest cost thereon to the City and the persons served by the System.

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

delinquent as of July 1 in any Fiscal Year, it will certify the delinquent charges as taxes for collection in that Fiscal Year, to the extent authorized by law.

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

8.12. Owners' Rights. No Owner of any Bond shall have the right to institute any proceeding, judicial or otherwise, for the enforcement of the covenants herein contained, without the written concurrence of the Owners of not less than 25% in aggregate principal amount of all such Bonds which are at the time Outstanding; but the Owners of such amount of Bonds may, either at law or in equity, by suit, action or other proceedings, protect and enforce the rights of all Owners of Bonds and compel the performance of any and all of the covenants required herein to be performed by the City and its officers and employees, including but not limited to the fixing and maintaining of rates, fees and charges and the collection and proper segregation of the Revenues and the application and use thereof. The Owners of a majority in principal amount of Outstanding Bonds shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Owners or the exercise of any power conferred on them and the right to waive a default in the performance of any such covenant, and its consequences, except a default in the payment of the principal of or interest on any Bond when due. Nothing herein, however, shall impair the absolute and unconditional right of the Owner of each Bond to receive payment of the principal of, premium, if any, and interest on such Bond as such principal, premium and interest respectively become due, and to institute suit for any such payment. Any court having jurisdiction of the action may appoint a receiver to administer the System on behalf of the City with power to charge and collect rates, fees and charges sufficient to provide for the payment of any Bonds, and to apply the Net Revenues in conformity with this Resolution and the laws of the State.

## Section 9. Supplemental Resolutions.

9.01. General. The City reserves the right to adopt Supplemental Resolutions to this Resolution from time to time and at any time, for the purpose of curing any ambiguity or of curing, correcting or supplementing any defective provision contained herein, or of making such provisions with regard to matters or questions arising hereunder as the City may deem necessary or desirable and not inconsistent with this Resolution, and which shall not adversely affect the interests of the Owners of Bonds issued hereunder, or for the purpose of adding to the covenants and agreements herein contained, or to the Net Revenues herein pledged, other covenants and agreements thereafter to be observed and additional revenues or income thereafter appropriated to the Storm Sewer System Fund, or for the purpose of surrendering any right or power herein

reserved to or conferred upon the City, or for the purpose of authorizing the creation and issuance of a series of Additional Bonds, as provided in and subject to the conditions and requirements of Section 4. Any such Supplemental Resolution may be adopted by resolution, without the consent of the Owner of any of the Bonds issued hereunder.

9.02. Consent of Owners. With the consent of the Owners of a majority in principal amount of Outstanding Bonds affected thereby as provided in Section 9.04, the City may from time to time and at any time adopt a Supplemental Resolution for the purpose of amending this Resolution by adding any provisions hereto or changing in any manner or eliminating any of the provisions hereof or of any Supplemental Resolution, except that no Supplemental Resolution shall be adopted at any time without the consent of the Owners of all Outstanding Bonds affected thereby, if it would extend the time of payment of interest thereon, would reduce the amount of the principal thereof or redemption premium thereon, would give to any Bond or Bonds any privilege over any other Bond or Bonds (except for the privilege accorded Bonds over Subordinate Obligations), would reduce the sources of revenues or income appropriated to the Storm Sewer System Fund, or would reduce the percentage in principal amount of such Bonds required to authorize or consent to any such Supplemental Resolution. For purposes of this Section 9.02, Bonds shall be deemed to be “affected” by a Supplemental Resolution if such Supplemental Resolution adversely affects or diminishes the rights of Owners thereof against the City or the Net Revenues.

9.03. Notice. Notice of a Supplemental Resolution to be adopted pursuant to Section 9.02 shall be mailed by first-class mail, postage prepaid, to the Owners of all Outstanding Bonds at their addresses appearing in the Bond Register and shall become effective only upon the filing of written consents with the City Clerk, signed by the Owners of not less than a majority in principal amount of Outstanding Bonds affected thereby. Any written consent to the Supplemental Resolution may be embodied in and evidenced by one or any number of concurrent written instruments of substantially similar tenor signed by Owners thereof in person or by agent duly appointed in writing, and shall become effective when delivered to the City Clerk. Any consent by the Owner of any Bond shall bind that Owner and every future Owner of the same Bond with respect to any Supplemental Resolution adopted by the City pursuant to such consent; provided that any Owner may revoke his consent with reference to any Bond by written notice received by the City Clerk before the Supplemental Resolution has become effective. In the event that unrevoked consents of the Owners of the required amount of Bonds have not been received by the City Clerk within one year after the publication of notice of the Supplemental Resolution, the Supplemental Resolution and all consents theretofore received shall be of no further force and effect.

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

the City may nevertheless, in its discretion, require further proof in cases where it deems further proof desirable. The ownership of any Bonds shall be proved by the Bond Register.

Section 10. Defeasance or Discharge.

10.01. General. When the liability of the City on all Bonds issued under and secured by this Resolution and all interest thereon has been discharged as provided in this Section 10, all pledges, covenants and other rights granted by this Resolution to the Owners of such Bonds shall cease.

10.02. 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.

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

10.04. Escrow. The City may also at any time discharge its liability in its entirety with reference to any Bond 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 Defeasance Obligations 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 Bond at its Stated Maturity or, if such Bond is prepayable and notice of redemption thereof has been given or irrevocably provided for, to such earlier Redemption Date.

Section 11. Certification of Proceedings.

The officers of the City are hereby authorized and directed to prepare and furnish to the Original Purchaser and to Dorsey & Whitney LLP, Bond Counsel, certified copies of all proceedings and records of the City, and such other affidavits, certificates and information as may be required to show the facts relating to the legality and marketability of the Bonds as the same appear from the books and records under their custody and control or as otherwise known to them, and all such certified copies, certificates and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

Section 12. Repeals and Effective Date.

12.01. Repeal. All provisions of other resolutions and other actions and proceedings of the City and this Council that are in any way inconsistent with the terms and provisions of this Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Resolution.

12.02. Effective Date. This Resolution shall take effect immediately upon its passage and adoption by this Council.

PASSED AND ADOPTED by the City Council of the City of Billings, Montana, this 28th day of October, 2013.

\_\_\_\_\_  
Mayor

Attest: \_\_\_\_\_  
City Clerk

(SEAL)

## EXHIBIT A

### 2013 PROJECT

The project consists of developing the Shiloh Conservation Area by constructing wetlands and open water features to trap sediment, remove nutrients from the water column and provide stormwater detention within a natural conservation area setting.

EXHIBIT B

UNITED STATES OF AMERICA  
STATE OF MONTANA  
COUNTY OF YELLOWSTONE

CITY OF BILLINGS, MONTANA

STORM SYSTEM REVENUE BONDS, SERIES 2013

No. \_\_\_\_\_ \$ \_\_\_\_\_

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 1,	November 12, 2013	090139

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS AND NO/100

FOR VALUE RECEIVED, THE CITY OF BILLINGS, YELLOWSTONE COUNTY, STATE OF MONTANA (the "City"), acknowledges itself to be indebted and hereby promises to pay to the registered owner named above, or registered assigns, solely from the Debt Service Account of its Storm Sewer System Fund, 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 the Date of Original Issue set forth above 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 upon presentation and surrender hereof to U.S. Bank National Association, of Seattle, Washington, as registrar, transfer agent and paying agent, or its successor designated under the Resolution described herein (the "Registrar") at its operations center in St. Paul, Minnesota. The interest on this Bond shall be payable on January 1 and July 1 in each year, commencing January 1, 2014. Interest on the Series 2013 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 15th 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 shall be payable by check or draft issued by the Registrar described herein. The principal of and interest on this Bond are payable in lawful money of the United States of America. Interest shall be calculated on the basis of a 360-day year composed of twelve 30-day months.

Notwithstanding any other provisions of this Bond, so long as this Bond is registered in the name of Cede & Co., as nominee of The Depository Trust Company, or in the name of any

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

This Bond is one of a duly authorized issue of Bonds of the City designated as “Storm Sewer System Revenue Bonds” (collectively, the “Bonds”), issued and to be issued in one or more series under, and all equally and ratably secured by Resolution No. [\_\_\_\_], adopted by the City Council on October 28, 2013 (as amended or supplemented in accordance with the provisions thereof, the “Resolution”), to which Resolution, copies of which are on file with the City, reference is hereby made for a description of the nature and extent of the security, the respective rights thereunder of the Owners of the Bonds and the City and the terms upon which the Bonds are to be issued and delivered. As provided in the Resolution, the Bonds are issuable in series which may vary as in the Resolution provided or permitted. This Bond is one of the series specified in its title, issued in the aggregate principal amount of \$4,270,000 (the “Series 2013 Bonds”), all of like date of original issue and tenor except as to serial number, denomination, date, interest rate, maturity date and redemption privilege. The Series 2013 Bonds are issued by the City for the purpose of financing the costs of certain improvements of the City’s municipal storm sewer system (the “System,” which term includes all improvements, betterments, extensions and alterations of the System as it exists at any time). Capitalized terms used herein but not otherwise defined shall have the respective meanings given such terms in the Resolution.

The Series 2013 Bonds are issued pursuant to and in full compliance with the Constitution and laws of the State of Montana, particularly Montana Code Annotated, Title 7, Chapter 7, Part 44, and Sections 7-13-4304 through 7-13-4314, as amended or supplemented (the “Act”), and pursuant to the Resolution. The Series 2013 Bonds are payable solely and ratably from Net Revenues pledged to the payment thereof.

The Bonds are not general obligations of the City and the City’s general credit and taxing powers are not pledged to the payment of the Bonds or the interest thereon. The Bonds shall not constitute an indebtedness of the City within the meaning of any constitutional or statutory limitations.

The Series 2013 Bonds with Stated Maturities on or after July 1, 2024 are subject to redemption on July 1, 2023 and any date thereafter, at the option of the City, in whole or in part, and if in part from such Stated Maturities and in such principal amounts as the City may designate in writing to the Registrar (or, if no designation is made, in inverse order of maturities and within a maturity in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair), at a Redemption Price equal to the principal amount thereof and interest accrued to the Redemption Date, without premium.

The Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 are subject to mandatory sinking fund redemption on July 1 in the respective years and the respective principal amounts set forth below in \$5,000 principal amounts selected by the Registrar, by lot or other manner it deems fair, at a Redemption Price equal to the principal amount thereof to be redeemed plus interest accrued to the Redemption Date:

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund Payment Date <u>Payment Date</u>
2018	\$175,000
2019	180,000
2020*	185,000

\*Final maturity.

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund Payment Date <u>Payment Date</u>
2021	\$190,000
2022	195,000
2023*	200,000

\*Final maturity.

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund Payment Date <u>Payment Date</u>
2027	\$235,000
2028*	245,000

\*Final maturity.

Sinking Fund Payment Date <u>(July 1)</u>	Principal Amount on Sinking Fund Payment Date <u>Payment Date</u>
2029	\$255,000
2030	270,000
2031	285,000
2032	300,000
2033*	315,000

\*Final maturity.

The principal amounts of the Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of any such Series 2013 Bonds theretofore redeemed at the option of the City and not previously applied to reduce the principal amount of such Series 2013 Bonds on a Sinking Fund Payment Date.

If the Series 2013 Bonds having Stated Maturities in 2020, 2023, 2028 and 2033 are not previously purchased by the City in the open market or prepaid, \$185,000, \$200,000, \$245,000

and \$315,000, respectively, in principal amount of such Series 2013 Bonds would remain to mature in 2020, 2023, 2028 and 2033. The principal amount of the Series 2013 Bonds required to be redeemed on the above Sinking Fund Payment Dates shall be reduced by the principal amount of such Series 2013 Bonds theretofore redeemed at the option of this Council and as to which the City has not previously applied amounts to reduce the principal amount of such Series 2013 Bonds on a Sinking Fund Payment Date.

As provided in the Resolution and subject to certain limitations set forth therein, this Series 2013 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 2013 Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2013 Bond or Bonds to be issued in the name of the transferee or registered owner, of the same aggregate principal amount, bearing interest at the same rate and maturing on the same date, subject to reimbursement for any tax, fee or governmental charge required to be paid with respect to such transfer or exchange.

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

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, and has created a special Storm Sewer System Fund into which the Revenues of the System will be paid and a separate and special Debt Service Account in the Storm Sewer System Fund into which will be paid semiannually, from and as a first and prior lien on the Net Revenues of the System, an amount not less than one-sixth of the interest due on all Outstanding Bonds within the next six months and one-twelfth of the principal of all Outstanding Bonds due within the next twelve months; that the City has credited to the Reserve Account of the Storm Sewer System Fund from the proceeds of the Series 2013 Bonds an amount sufficient to cause the balance therein to equal the Reserve Requirement, and the City has agreed thereafter to credit semiannually to the Reserve Account, from the Net Revenues, such additional amounts as may be necessary to maintain a balance therein at least equal to the Reserve Requirement; that the Debt Service Account and the Reserve Account will be used only to pay the principal of, premium, if any, and interest on the Bonds (subject to the requirements of the Rebate Account); that the rates and charges for the System will from time to time be made and kept sufficient to provide Net Revenues for each fiscal year commencing after June 30, 2013, at least equal to 125% of the maximum of the principal of and interest on the Series 2013 Bonds and any Additional Bonds to become due in all full future fiscal years, to establish and maintain the Reserve Requirement, to pay promptly the reasonable and current expenses of operating and maintaining the System, to pay principal of and interest on any Subordinate Obligations and to provide reserves for the repair and replacement of the System; that Additional Bonds may be issued and made payable from the Storm Sewer System Fund on a parity with the Series 2013 Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues, whether or not such obligation shall also

constitute a general obligation and indebtedness of the City, unless the lien thereof shall be expressly made subordinate to the lien of the Series 2013 Bonds on such Net Revenues; that all provisions for the security of the holder of this Bond set forth in the Resolution will be punctually and faithfully performed as therein stipulated; that all acts, conditions and things required by the Constitution and laws of the State of Montana and the ordinances and resolutions of the City to be done, to exist, to happen and to be performed in order to make this Bond a valid and binding special, limited obligation of the City according to its terms have been done, do exist, have happened and have been performed as so required; and that this Bond and the interest and premium, if any, hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Debt Service Account and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision and the issuance of the Series 2013 Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation.

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, Montana, by its City Council, has caused this Bond to be executed by the facsimile signatures of the Mayor, the City Finance Director and the City Clerk, and by a printed facsimile of the official seal of the City.

CITY OF BILLINGS, MONTANA

(Facsimile Signature)  
MAYOR

(Facsimile Seal)

(Facsimile Signature)  
CITY FINANCE DIRECTOR

(Facsimile Signature)  
CITY CLERK

Dated:

CERTIFICATE OF AUTHENTICATION

This is one of the Bonds delivered pursuant to the Resolution mentioned herein.

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

By \_\_\_\_\_  
Authorized Signature

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

JT TEN -- as joint tenants  
with right of  
survivorship and  
not as tenants in  
common

Minor Act.....  
(State)

\_\_\_\_\_  
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, enlargement  
or any change whatsoever.

### SIGNATURE GUARANTEED

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

Exchange Act of 1934, as amended.