

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 Resolution No. [_____], entitled: "RESOLUTION RELATING TO \$70,000,000 WATER SYSTEM REVENUE BONDS, SERIES 2023A; 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 regular meeting on July 10, 2023, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 10th day of July, 2023.

City Clerk

RESOLUTION NO. [_____]

RESOLUTION RELATING TO \$70,000,000 WATER SYSTEM REVENUE BONDS,
SERIES 2023A; AUTHORIZING THE SALE AND PRESCRIBING THE FORMS
AND TERMS THEREOF AND THE SECURITY THEREFOR

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

Section 1. Definitions, Authorizations and Findings.

1.01. Authorization. Under Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended (the “Act”), the City is authorized to sell and issue 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 water 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 water 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 water system to the City.

1.02. Prior City Actions. In accordance with the Act, and pursuant to a resolution adopted by the Council on July 10, 2023 amending and restating prior water revenue bond resolutions (the “Original Resolution”), the City has issued and there are outstanding the City’s:

- First Amended and Restated Water System Revenue Bond (DNRC Drinking Water Revolving Loan Program), Series 2005 (the “Series 2005 Bond”),
- Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009B (the “Series 2009B Bond”),
- First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009C (the “Series 2009C Bond”),
- First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009D (the “Series 2009D Bond”),
- First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2010B (the “Series 2010B Bond”),
- Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2012 (the “Series 2012 Bond”),
- Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2014 (the “Series 2014 Bond”), and
- Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2015 (the “Series 2015 Bond”).

The Series 2005 Bond, Series 2009B Bond, Series 2009C Bond, Series 2009D Bond, Series 2010B Bond, Series 2012 Bond, Series 2014 Bond and Series 2015 Bond are collectively referred to herein as the “Outstanding SRF Bonds.” Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Original Resolution.

1.03. Additional Bonds. In Article IV of the Original Resolution, the City reserved the right to issue Additional Bonds payable from and secured by Net Revenues of the System on a parity with the Outstanding SRF Bonds on certain terms and conditions, including the requirement that Net Revenues of the System for the last complete Fiscal Year equaled at least 125% of the maximum amount of principal and interest payable from the Revenue Bond Account in any subsequent Fiscal Year on all Bonds then Outstanding and on the Additional Bonds proposed to be issued. The Net Revenues of the System for Fiscal Year ended June 30, 2022 were equal to \$17,332,669, which is more than 125% of the maximum amount of principal and interest payable on the Outstanding SRF Bonds and Series 2023A Bonds (as hereinafter defined) in any subsequent Fiscal Year ($\$6,334,940.50 \times 125\% = \$7,918,675.63$). Therefore, it is determined that the City is authorized to issue the Series 2023A Bonds in the aggregate principal amount of \$70,000,000 as Additional Bonds on a parity with the Outstanding SRF Bonds.

1.04. The System Project. The City has determined to undertake certain improvements to the City’s municipal water system (the “System”), including design, engineering and construction of a new water reservoir, water treatment plant and related improvements (collectively, the “System Project”). The System Project is currently expected to cost \$150,000,000. Proceeds of the Series 2023A Bonds are expected to be used to pay a portion of the costs of the System Project and to pay costs of issuing the Series 2023A Bonds. Costs of the System Project in excess of the proceeds of the Series 2023A Bonds are expected to be paid from cash on hand and from proceeds of a series of Additional Bonds, anticipated to be issued in calendar year 2024.¹

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 2023A Bonds will be sufficient to pay the principal of and interest when due on the Outstanding SRF Bonds and the Series 2023A 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 or prescribed in the Original Resolution.

¹ NTD: the Additional Bonds would be issued pursuant to a new supplemental resolution to be approved by City Council

Upon the issuance of the Series 2023A Bonds, the only Bonds payable from the System will be the Outstanding SRF Bonds and the Series 2023A Bonds.

(c) It is in the best interests of the City and its residents to issue and sell the Series 2023A Bonds to finance or reimburse the costs of the System Project as provided in this Supplemental Resolution.

1.06. Authorization and Sale of Series 2023A Bonds.

(a) Pursuant to Resolution No. 23-11110 adopted April 10, 2023 (the “Authorizing Resolution”), which authorized and provided for the sale of the City’s Water System Revenue Bonds, Series 2023A (the “Series 2023A Bonds”), the City conducted a public sale, duly noticed pursuant to Section 7-7-4434 of the Act, including in The Bond Buyer, a newspaper of general circulation in the State, pursuant to which bids were received on June 21, 2023. Thereafter the City Administrator and the City Finance Director were presented with tabulated bids.

(b) Based on such bids and in accordance with the parameters set forth in the Authorizing Resolution, on April 10, 2023, the City Administrator and the City Finance Director awarded the sale of the Series 2023A Bonds to BofA Securities, New York, New York (the “Original Purchaser”), on its bid, which is attached hereto as Exhibit A, to purchase the Series 2023A Bonds at a price of \$75,335,931.15 (representing the principal amount of the Series 2023A Bonds (\$70,000,000.00, plus original issue premium of \$5,386,331.15, and less underwriter’s discount of \$50,400.00). The interest rates designated by the Original Purchaser in such bid and set forth in Section 2.01 result in a true interest cost of 3.6434124%.

It is hereby found, determined and declared that the public sale was conducted in accordance with the Act and the interest rates and other terms of the Original Purchaser’s bid are in accordance with the parameters set forth in the Authorizing Resolution and the procedures of the public sale and the award of the Series 2023A Bonds to the Original Purchaser are hereby ratified and confirmed.

1.07. Recitals. All acts, conditions and things required by the Constitution and laws of the State to be done, to exist, to happen and to be performed prior to the issuance of the Series 2023A 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 2023A Bonds, to provide for the security thereof and to issue the Series 2023A Bonds forthwith.

Section 2. Bond Terms, Execution and Delivery.

2.01. Term of Series 2023A Bonds. The Series 2023A Bonds shall be designated “Water System Revenue Bonds, Series 2023A.” The Series 2023A Bonds shall be in denominations of \$5,000 or any integral multiple thereof of single maturities. The Series 2023A Bonds are not secured by the Reserve Account. The Series 2023A Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in the years and amounts listed below, and the Series 2023A Bonds maturing in such years and amounts shall bear interest from date of original

issue until paid or duly called for redemption at the rates shown opposite such years and amounts, as follows:

<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>	<u>Year</u>	<u>Amount</u>	<u>Interest Rate</u>
2024	\$ 580,000	5.000%	2034	\$3,530,000	5.000%
2025	445,000	5.000	2035	4,225,000	5.000
2026	1,595,000	5.000	2036	4,545,000	5.000
2027	1,670,000	5.000	2037	4,770,000	5.000
2028	1,755,000	5.000	2038	5,010,000	3.875
2029	1,845,000	5.000	2039	5,205,000	4.000
2030	2,590,000	5.000	2040	5,415,000	4.000
2031	2,870,000	5.000	2041	5,630,000	4.000
2032	3,015,000	5.000	2042	5,855,000	4.000
2033	3,360,000	5.000	2043	6,090,000	4.000

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

2.02. Registered Form, Interest Payment Dates. The Series 2023A Bonds shall be issuable only in fully registered form, and the ownership of the Series 2023A Bonds shall be transferred only upon the Bond Register of the City hereinafter described. The interest on the Series 2023A Bonds shall be payable on January 1 and July 1 in each year, commencing January 1, 2024. Interest on the Series 2023A Bonds shall be payable to the Holders 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 2023A Bond shall be payable by check or draft issued by the Registrar described herein.

2.03. Dated Date. Each Series 2023A Bond shall be dated, as originally issued, as of July 20, 2023, and upon authentication of any Series 2023A Bond the Registrar shall indicate thereon the date of such authentication.

2.04. Registration. The City shall appoint, and shall maintain, a bond registrar, transfer agent and paying agent (the “Registrar”). The effect of registration and the rights and duties of the City and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its principal office a Bond Register in which the Registrar shall provide for the registration of ownership of Series 2023A Bonds and the registration of transfers and exchanges of Series 2023A Bonds entitled to be registered, transferred or exchanged.

(b) Transfer of Series 2023A Bonds. Upon surrender to the Registrar for transfer of any Series 2023A Bond duly endorsed by the Holder thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the Holder thereof or by the Holder’s attorney-in-fact in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or

more new Series 2023A Bonds of the same series and of 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 2023A Bond or portion thereof selected or called for redemption.

(c) Exchange of Bonds. Whenever any Series 2023A Bond is surrendered by the Holder for exchange, the Registrar shall authenticate and deliver one or more new Series 2023A Bonds of the same series of a like aggregate principal amount, interest rate and maturity, as requested by the Holder or the Holder's attorney-in-fact in writing.

(d) Cancellation. All Series 2023A 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 2023A 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 2023A 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 Holders. The City and the Registrar may treat the Person in whose name any Series 2023A Bond is at any time registered in the Bond Register as the absolute owner of such Series 2023A Bond, whether such Series 2023A Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of, premium, if any, and interest on such Series 2023A 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 2023A Bond to the extent of the sum or sums so paid.

(g) Taxes, Fees and Charges. For every transfer or exchange of Series 2023A Bonds (except for an exchange upon a partial redemption of a Series 2023A Bond), the Registrar may impose a charge upon the Holder thereof sufficient to reimburse the Registrar for any tax, fee or other governmental charge required to be paid with respect to such transfer or exchange.

(h) Mutilated, Lost, Stolen or Destroyed Bonds. In case any Series 2023A Bond shall become mutilated or be lost, stolen or destroyed, the Registrar shall deliver a new Series 2023A Bond of the same series of a like aggregate principal amount, interest rate and maturity date in exchange and substitution for and upon cancellation of any such mutilated Series 2023A Bond or in lieu of and in substitution for any such Series 2023A 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 2023A Bond lost, stolen or destroyed, upon filing with the Registrar of evidence satisfactory to it that such Series 2023A 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 2023A Bonds so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the City. If the mutilated, lost, stolen or destroyed Series 2023A Bond has already matured or such Series 2023A Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Series 2023A Bond prior to payment.

2.05. Appointment of Initial Registrar. The City hereby appoints U.S. Bank Trust Company, National Association, in Salt Lake City, Utah, to act as Registrar for the Series 2023A Bonds. The City reserves the right to appoint a successor Registrar, 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 2023A Bonds in its possession as Registrar to the successor Registrar and shall deliver the Bond Register to the successor Registrar.

2.06. Optional Redemption. The Series 2023A Bonds with Stated Maturities in the years 2024 through 2032 are not subject to redemption prior to their Stated Maturities. The Series 2023A Bonds with Stated Maturities on or after July 1, 2033 are subject to redemption on July 1, 2032 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 as directed by the City), 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 2023A 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 given, by first class mail or by other means required by the securities depository, to the Holders of each Series 2023A Bond to be redeemed at their addresses as they appear on the Bond Register, but no defect in or failure to give such notice shall affect the validity of proceedings for the redemption of any Series 2023A 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 2023A Bonds to be redeemed, if the notice is conditional, the conditions that must be satisfied for the redemption to occur, and the place at which the Series 2023A Bonds are to be surrendered for payment, which is the principal office of the Registrar. Official notice of redemption having been given as aforesaid, the Series 2023A 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 2023A Bonds or portions thereof shall cease to bear interest.

Any notice of optional redemption of Series 2023A Bonds may state that redemption is conditioned upon the receipt by the Registrar on or prior to the date fixed for such redemption of money sufficient to pay the redemption price of the Series 2023A Bonds to be redeemed or upon the satisfaction of any other condition stated in the notice, and that if such money is not so received or such condition not so satisfied, such notice shall be of no force and effect, and the City shall not be required to redeem such Series 2023A Bonds. In the event that a notice of redemption contains such a condition and such money is not so received or such condition is not so satisfied, the redemption will not be made and the Registrar will, within a reasonable time thereafter, give notice in the manner in which the notice of redemption was given, that such money was not so received or such condition not so satisfied and that such redemption was not made.

2.07. Execution and Delivery. The Series 2023A Bonds shall be executed on behalf of the City in accordance with the Original Resolution. When the Series 2023A Bonds have been fully executed, they shall be authenticated and registered by the Registrar and delivered to the Original Purchaser upon payment of the purchase price therefor, and the Original Purchaser shall not be obligated to see to the application of the purchase price.

2.08. Securities Depository for the Series 2023A Bonds.

(a) For purposes of this Section 2.08, the following terms shall have the following meanings:

“Beneficial Owner” shall mean, whenever used with respect to a Series 2023A Bond, the person in whose name such Series 2023A Bond is recorded as the beneficial owner of such Series 2023A 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 2023A 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 2023A 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 2023A Bonds shall be initially issued as separately authenticated fully registered Series 2023A Bonds, and one Series 2023A Bond shall be issued in the principal amount of each Stated Maturity of the Series 2023A Bonds. Upon initial issuance, the ownership of such Series 2023A 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 Holder of the Series 2023A Bonds registered in its name for the purposes of payment of the principal of or interest on the Series 2023A Bonds, selecting the Series 2023A Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to Holders of Series

2023A Bonds under the Original Resolution or this Supplemental Resolution, registering the transfer of Series 2023A 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 2023A Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond Register as being a Holder, 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 2023A Bonds, with respect to any notice which is permitted or required to be given to Holders under the Original Resolution or this Supplemental 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 2023A Bonds, or with respect to any consent given or other action taken by DTC as Holder of the Series 2023A Bonds. So long as any Series 2023A 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 2023A Bond, and shall give all notices with respect to such Series 2023A 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 2023A Bonds to the extent of the sum or sums so paid. Unless the services of DTC as securities depository with respect to the Series 2023A Bonds are terminated as provided in subsection (c) hereof, no Person other than DTC shall receive an authenticated Series 2023A 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 2023A Bonds will be transferable to such new nominee in accordance with subsection (e) hereof.

(c) In the event the City determines to discontinue the book-entry-only system for the Series 2023A Bonds, the City may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Series 2023A Bonds in the form of certificates. In such event, the Series 2023A Bonds will be transferable in accordance with subsection (e) hereof. DTC may determine to discontinue providing its services with respect to the Series 2023A Bonds at any time by giving notice to the City and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Series 2023A Bonds will be transferable in accordance with subsection (e) hereof.

(d) The Representation Letter sets forth certain matters with respect to, among other things, notices, consents and approvals by Holders and Beneficial Owners and payments on the Series 2023A Bonds. The Registrar shall have the same rights with respect to its actions thereunder as it has with respect to its actions under the Original Resolution and this Supplemental Resolution.

(e) In the event that any transfer or exchange of Series 2023A Bonds is permitted under subsection (b) or (c) hereof, such transfer or exchange shall be accomplished upon receipt by the Registrar of the Series 2023A Bonds to be transferred

or exchanged and appropriate instruments of transfer to the permitted transferee in accordance with the provisions of this Supplemental Resolution. In the event Series 2023A Bonds in the form of certificates are issued to Holders other than Cede & Co., its successor as nominee for DTC as Holder of all the Series 2023A Bonds, or another securities depository as Holder of all the Series 2023A Bonds, the provisions of the Original Resolution and this Supplemental Resolution shall also apply to all matters relating thereto, including, without limitation, the preparation of such Series 2023A Bonds in the form of Series 2023A Bond certificates and the method of payment of principal of and interest on such Series 2023A Bonds in the form of Series 2023A Bond certificates.

2.09. Form of Series 2023A Bonds. The Series 2023A Bonds shall be prepared in substantially the form set forth in Exhibit B hereto and by this reference is made a part hereof.

2.10. Use of Proceeds. On the date of issuance of the Series 2023A Bonds, the City Finance Director shall apply the proceeds of the Series 2023A Bonds as follows:

(a) \$75,107,431.15 shall be deposited to the Acquisition and Construction Account and used to pay or reimburse the City for costs of the System Project; and

(b) \$228,500.00 shall be deposited to the Acquisition and Construction Account and used to pay costs of issuance of the Series 2023A Bonds.

Section 3. Security for the Series 2023A Bonds. The Series 2023A Bonds are issued under and pursuant to Sections 4.1 and 4.2 of the Original Resolution and shall, with the Outstanding SRF Bonds and any Additional Bonds hereafter issued, be secured, equally and ratably, by a first lien upon the Net Revenues of the System (the Gross Revenues being subject to the prior appropriation thereof to the Operating Account for the payment of Operating Expenses), without preference or priority of any one Bond over any other by reason of serial number, date of issue, series designation or otherwise, all as provided in the Original Resolution. The Series 2023A Bonds are not secured by the Reserve Account. The City shall keep, perform and observe each and every one of its covenants and undertakings set forth in the Original Resolution, as amended and supplemented by this Resolution.

Section 4. Continuing Disclosure. The Council hereby approves the Continuing Disclosure Undertaking of the City substantially in the form of the attached Exhibit C and authorizes the Mayor and the City Clerk, or in the absence of either of them or in the event of their inability to sign, their designees, to execute and deliver the Continuing Disclosure Undertaking on behalf of the City contemporaneously with the date of issuance and delivery of the Series 2023A Bonds, with such changes as may be necessary or appropriate. The signatures of any two authorized officers of the City are adequate to cause the Continuing Disclosure Undertaking to be binding and enforceable on the City.

Section 5. Tax Covenants and Certifications.

5.01. Use of System Project. The System Project will be owned and operated by the City and available for use by members of the general public on a substantially equal basis. The City shall not enter into any lease, use or other agreement with any non-governmental person

relating to the use of the System Project or security for the payment of the Series 2023A Bonds which might cause the Series 2023A Bonds to be considered “private activity bonds” or “private loan bonds” within the meaning of Section 141 of the Code.

5.02. General Covenant. The City covenants and agrees with the Holders from time to time of the Series 2023A 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 2023A Bonds to become includable in gross income for federal income tax purposes under the Code and the Regulations, and covenants to take any and all actions within its powers to ensure that the interest on the Series 2023A Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

5.03. 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 2023A Bonds pursuant to the Original Resolution and this Supplemental Resolution, are authorized and directed to execute and deliver to the Original Purchaser, certificates 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 2023A Bonds, it is reasonably expected that the proceeds of the Series 2023A Bonds will not be used in a manner that would cause the Series 2023A Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code and the Regulations.

5.04. Arbitrage Rebate. The City acknowledges that the Series 2023A 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 Regulations to preserve the exclusion of interest on the Series 2023A Bonds from gross income for federal income tax purposes, unless the Series 2023A 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 2023A 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 City Finance Director is 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.

5.05. Information Reporting. The City shall file with the Secretary of the Treasury, not later than November 15, 2023, a statement concerning the Series 2023A Bonds containing the information required by Section 149(e) of the Code.

Section 6. 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 Series 2023A 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 7. Repeals and Effective Date.

7.01. 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 Supplemental Resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this Supplemental Resolution.

7.02. Effective Date. This Supplemental 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
10th day of July, 2023.

Mayor

Attest: _____
City Clerk

(SEAL)

EXHIBIT A

[Winning Bid]

BofA Securities - New York, NY's Bid
City of Billings, Montana
\$70,000,000 Water System Revenue Bonds, Series 2023A



For the aggregate principal amount of \$70,000,000.00, we will pay you ~~\$75,423,161.80~~ \$75,335,931.15, plus accrued interest from the date of issue to the date of delivery. The Bonds are to bear interest at the following rate(s):

Maturity Date	Amount \$	Coupon %	Yield %	Dollar Price	Bond Insurance
07/01/2024	730M 580M	5.0000	3.1500	101.711	
07/01/2025	645M 445M	5.0000	2.9700	103.811	
07/01/2026	1,765M 1,595M	5.0000	2.8900	105.918	
07/01/2027	1,835M 1,670M	5.0000	2.8000	108.165	
07/01/2028	1,940M 1,755M	5.0000	2.7700	110.242	
07/01/2029	1,985M 1,845M	5.0000	2.7700	112.148	
07/01/2030	2,720M 2,590M	5.0000	2.7100	114.411	
07/01/2031	2,980M 2,870M	5.0000	2.6000	117.130	
07/01/2032	3,095M 3,015M	5.0000	2.6000	119.047	
07/01/2033	3,415M 3,360M	5.0000	2.7000	118.171	
07/01/2034	3,535M 3,530M	5.0000	2.8000	117.303	
07/01/2035	4,185M 4,225M	5.0000	2.9100	116.357	
07/01/2036	4,450M 4,545M	5.0000	3.1000	114.745	
07/01/2037	4,630M 4,770M	5.0000	3.2600	113.407	
07/01/2038	4,815M 5,010M	3.8750	3.8800	99.941	
07/01/2039	5,040M 5,205M	4.0000	3.8800	100.898	
07/01/2040	5,225M 5,415M	4.0000	3.9200	100.597	
07/01/2041	5,455M 5,630M	4.0000	3.9700	100.222	
07/01/2042	5,695M 5,855M	4.0000	4.0000	100.000	
07/01/2043	5,950M 6,090M	4.0000	4.0300	99.589	

Total Interest Cost:	\$40,042,232.24	\$40,633,995.66
Premium:	\$5,423,161.80	\$5,335,931.15
Net Interest Cost:	\$34,619,070.44	\$35,298,064.51
TIC:	3.630467%	3.6434124%
Total Insurance Premium:		\$0.00
Time Last Bid Received On:	06/21/2023 9:57:12 MDST	

This proposal is made subject to all of the terms and conditions of the Official Bid Form, the Official Notice of Sale, and the Preliminary Official Statement, all of which are made a part hereof.

Bidder: BofA Securities, New York, NY
 Contact: David Anderson
 Title: Managing Director
 Telephone: 212-449-5081
 Fax: 212-449-3733

Issuer Name: City of Billings, MT

Company Name: BofA Securities

Accepted By: _____

Accepted By: 

Date: June 21, 2023

Date: June 21, 2023

EXHIBIT B

[FORM OF SERIES 2023A BOND]

UNITED STATES OF AMERICA
STATE OF MONTANA
COUNTY OF YELLOWSTONE

CITY OF BILLINGS

WATER SYSTEM REVENUE BOND
SERIES 2023A

No. R-_____ \$_____

<u>Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	July 1,	July 20, 2023	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: DOLLARS AND NO/100

FOR VALUE RECEIVED, CITY OF BILLINGS, MONTANA (the “City”), a duly organized municipal corporation and political subdivision of the State of Montana, acknowledges itself to be specially indebted and, for value received, hereby promises to pay to the registered owner named above, or registered assigns, solely from the Revenue Bond Account of its Water 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, with interest thereon from the date of original issue set forth above or from such later date to which interest has been paid or duly provided for at the rate specified above. Principal of this Bond is payable upon presentation and surrender hereof to U.S. Bank Trust Company, National Association, of Salt Lake City, Utah, 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, 2024. Interest on the Series 2023A 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 this Bond shall be payable by check or draft issued by or drawn on the Registrar or, as appropriate, by wire transfer. 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 comprising 12 months of 30 days each.

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 series of Water System Revenue Bonds of the City authorized to be issued in the aggregate principal amount of \$70,000,000 (the “Series 2023A Bonds”). The Series 2023A Bonds are issued to finance costs of construction of certain improvements to the water system of the City (the “System”), and to pay costs of issuance of the Series 2023A Bonds. The Series 2023A Bonds are issued pursuant to and in full conformity with the Constitution and laws of the State of Montana thereunto enabling, including Montana Code Annotated, Title 7, Chapter 7, Parts 44 and 45, as amended, and Resolution No. [_____] (the “Original Resolution”), adopted by the City Council on July 10, 2023, as amended and supplemented by Resolution No. [_____] adopted July 10, 2023 (as so amended and supplemented, 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 Holders of the Series 2023A Bonds and the City and the terms upon which the Series 2023A Bonds are to be issued and delivered. Terms used with initial capital letters but not defined herein have the meanings given them in the Resolution. The Series 2023A Bonds are issuable as a series, 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 2023A Bonds are issued on a parity with and are equally and ratably secured by Net Revenues of the System with the City’s outstanding First Amended and Restated Water System Revenue Bond (DNRC Drinking Water Revolving Loan Program), Series 2005; Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009B; First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009C; First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2009D; First Amended and Restated Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2010B; Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2012; Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2014 and Water System Revenue Bond (DNRC Drinking Water State Revolving Fund Program), Series 2015 (all such Bonds, collectively, the “Outstanding SRF Bonds”). The Series 2023A Bonds are not secured by the Reserve Account.

Reference is made to the Resolution for a more complete statement of the terms and conditions upon which the Series 2023A Bonds have been issued, the Net Revenues of the System pledged and appropriated for the payment and security thereof, the conditions upon which Additional Bonds may be issued under the Resolution and made payable from such Net Revenues on a parity with the Outstanding SRF Bonds and the Series 2023A Bonds (collectively, the “Bonds”) or otherwise, the conditions upon which the Resolution may be amended, the rights, duties and obligations of the City, and the rights of the owners of the Series 2023A Bonds.

The Series 2023A Bonds with stated maturities in the years 2024 through 2032 are not subject to redemption prior to their stated maturities. The Series 2023A Bonds with stated maturities on or after July 1, 2033 are subject to redemption on July 1, 2032 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 as directed by the City), at a redemption price equal to the principal amount thereof and interest accrued to the Redemption Date, without premium.

As provided in the Resolution and subject to certain limitations set forth therein, this Series 2023A 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 its 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 its attorney; and may also be surrendered in exchange for Series 2023A Bonds of other authorized denominations. Upon any such transfer or exchange, the City will cause a new Series 2023A 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 Series 2023A Bonds, including interest and any premium for the redemption thereof, are payable solely from the Net Revenues pledged for the payment thereof and do not constitute a debt of the City within the meaning of any constitutional or statutory limitation or provision.

The City 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 the City shall not be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that the City will forthwith construct and complete the improvements to the System hereinabove described; that it will prescribe and collect reasonable rates and charges for all services and facilities afforded by the System, including all additions thereto and replacements and improvements thereof, and has created a special Water System Fund into which the Gross Revenues of the System will be paid, and a separate and special Revenue Bond Account in the Water System Fund, into which will be paid semiannually, from and as a first and prior lien on the Net Revenues of the System then on hand, an amount equal to not less than one-sixth of the interest to become due within the next six months and one-twelfth of the principal to become due within the next twelve months with respect to Outstanding Bonds payable semiannually from the Revenue Bond Account; that the City has created a Reserve Account in the Water System Fund into which shall be paid additional Net Revenues, after required credits to the Revenue Bond Account sufficient to maintain a reserve therein equal to the Reserve Requirement; that the Revenue Bond Account will be used only to pay the principal of, premium, if any, and interest on the Outstanding SRF Bonds, the Series 2023A Bonds and any Additional Bonds issued pursuant to the Resolution on a parity therewith; that the rates and charges for the System will from time to time be made and kept sufficient, to provide Gross Revenues adequate to pay promptly the Operating Expenses of the System and to produce during each Fiscal Year Net Revenues not less than 125% of the maximum annual principal and interest payable on Outstanding Bonds in any future Fiscal Year; that Additional Bonds may be issued and made payable from the Revenue Bond Account on a parity with the Outstanding Bonds and Series 2023A Bonds upon certain conditions set forth in the Resolution, but no obligation will be otherwise incurred and made payable from the Net Revenues of the System, unless the lien thereof shall be expressly made subordinate to the lien of the Outstanding Bonds and Series 2023A Bonds on such Net Revenues; that all provisions for the security of the holder of this Series 2023A

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 Series 2023A Bond a valid and binding special obligation of the City according to its terms have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required; and that this Series 2023A Bond and the interest hereon are payable solely from the Net Revenues of the System pledged and appropriated to the Revenue Bond 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 2023A Bonds does not cause either the general or the special indebtedness of the City to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Billings, Montana, by its governing body, has caused this Bond to be executed by the signatures of its Mayor, the City Finance Director, and City Clerk, and has caused the official seal of the City to be affixed hereto, and has caused this Bond to be dated as of the 20th day of July, 2023.

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 TRUST COMPANY,
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.

EXHIBIT C

Form of Continuing Disclosure Undertaking

This CONTINUING DISCLOSURE UNDERTAKING is made by the CITY OF BILLINGS, MONTANA (the “City”) in connection with the issuance and delivery by the City of its \$70,000,000 Water System Revenue Bonds, Series 2023A (the “Series 2023A Bonds”), as of this 20th day of July, 2023.

(a) Purpose and Beneficiaries. The Series 2023A Bonds were issued by the City in a public offering pursuant to an Official Statement dated June 21, 2023 with respect to the Series 2023A Bonds (the “Official Statement”). To provide for the public availability of certain information relating to the Series 2023A Bonds and the security therefor and to permit participating underwriters in the primary offering of the Series 2023A 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 Series 2023A 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 City is the only “obligated person” in respect of the Series 2023A 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 Continuing Disclosure Undertaking, any person aggrieved thereby, including the Owners of the outstanding Series 2023A Bonds, may take whatever action at law or in equity may appear necessary or appropriate to enforce performance and observance of this Continuing Disclosure Undertaking, 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 in this Continuing Disclosure Undertaking, in no event shall a default under this Continuing Disclosure Undertaking constitute a default under the Series 2023A Bonds or under any other provision of Resolution No. _____, adopted by the City Council of the City on July 10, 2023, as amended and supplemented by Resolution No. _____, adopted by the City Council of the City on July 10, 2023 (collectively, the “Resolution”). Capitalized terms used herein but not otherwise defined shall have the respective meanings given such terms in the Resolution.

As used in this Continuing Disclosure Undertaking, “Owner” means, in respect of a Series 2023A Bond, the registered owner or owners thereof appearing in the Bond Register 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 Continuing Disclosure Undertaking, “Beneficial Owner” means, in respect of a Series 2023A 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 Series 2023A Bond

(including persons or entities holding Series 2023A Bonds through nominees, depositories or other intermediaries), or (ii) is treated as the owner of the Series 2023A Bond for federal income tax purposes.

(b) Information To Be Disclosed. The City will provide, in the manner set forth in Section 3 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, 2023, the following financial information and operating data in respect of the City (the “Disclosure Information”):

(A) audited financial statements of the City for the then most recent completed fiscal year or, if unavailable by the date specified, the City shall provide on or before such date unaudited financial statements as part of the Disclosure Information and, within 10 days after the receipt of thereof, the City shall provide the audited financial statements. The audited financial statements are to be prepared in accordance with generally accepted accounting principles or as otherwise provided under State law, as such principles may be changed from time to time as permitted by State law. 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, the discrepancies will be noted; and

(B) updated information for the City for the then most recent completed fiscal year compiled by the City and publicly available under applicable data privacy or other law to include:

(1) a list of the major System users for the then current fiscal year in format similar to the table titled “Major Water System Customers” in Appendix A to the Official Statement; and

(2) updated information regarding the number of customers served by the System in a format similar to the table under the heading “Historical Water Customers” in Appendix A to the Official Statement;

(3) updated information regarding any changes in the user rates in a format similar to the tables under the heading “Rates, Charges and Fees” in Appendix A to the Official Statement;

(4) debt service coverage for the then most recent completed fiscal year.

The Disclosure Information will be provided as described in Section 3 and may be provided in a single document or multiple documents, and may be incorporated by specific reference to documents available to the public on the internet website of the MSRB or filed with the Securities Exchange Commission (the “SEC”). Any or all of the Disclosure Information may be incorporated by reference, if it is updated as required hereby, from other documents, including

official statements, which have been filed with the SEC or have been made available to the public on EMMA. The City shall clearly identify in the Disclosure Information each document so incorporated by reference.

If any part of the Disclosure Information can no longer be generated because the operations of the City have materially changed or been discontinued, such Disclosure Information need no longer be provided if the City includes in the Disclosure Information a statement to such effect; provided, however, if such operations have been replaced by other City operations in respect of which data is not included in the Disclosure Information and the City determines that certain specified data regarding such replacement operations would be 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 Continuing Disclosure Undertaking is amended as permitted by Section 4(b) hereof, then the City shall include in the next Disclosure Information to be delivered pursuant to this Continuing Disclosure Undertaking, 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 (10) business days, the City will provide notice of the occurrence of any of the following events:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions, 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 Series 2023A Bonds or other material events affecting the tax status of the Series 2023A Bonds;
- (7) modifications to rights of holders of the Series 2023A Bonds, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;

(10) release, substitution or sale of property securing repayment of the Series 2023A Bonds, if material;

(11) rating changes;

(12) bankruptcy, insolvency, receivership, or similar event of the City;

(13) 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;

(14) appointment of a successor or additional trustee or the change of name of a trustee, if material;

(15) incurrence of a financial obligation of the City or obligated person, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City or obligated person, any of which affect security holders, if material; and

(16) default, event of acceleration, termination event, modification of terms, or other similar events under the terms of the financial obligation of the City or obligated person, any of which reflect financial difficulties.

As used herein, for those events that must be reported 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 Series 2023A Bond or, if not disclosed, would materially alter the total mix of information otherwise available to an investor from the Official Statement 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 Series 2023A Bond within the meaning of applicable federal securities laws, as interpreted at the time of discovery of the occurrence of the event.

For purposes of paragraphs (O) and (P) above, the term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of either (i) or (ii). A “financial obligation” does not include municipal securities for which a final official statement has been provided to the MSRB consistent with the Rule.

(iii) In a timely manner, the City will provide notice of the occurrence of any of the following events or conditions:

(A) the failure of the City to provide the Disclosure Information described under Sections 2(a) and 2(b) hereof at the time specified thereunder;

(B) the amendment or supplementing of this Continuing Disclosure Undertaking pursuant to Section 4(b) hereof, together with a copy of such amendment or supplement and any explanation provided by the City; and

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

(c) Manner of Disclosure. The City agrees to make available the information described in Section 2 hereof to the MSRB through EMMA in an electronic format as prescribed by the MSRB. All documents provided to the MSRB shall be accompanied by identifying information as prescribed by the MSRB.

(d) Term; Amendments; Interpretation.

(i) This Continuing Disclosure Undertaking shall remain in effect until all Series 2023A Bonds have been paid or defeased under the Resolution.

(ii) Notwithstanding paragraph (a) above, this Continuing Disclosure Undertaking (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 Section 2(c)(ii) hereof), or the consent of the Owners of any Series 2023A Bonds, by a resolution or ordinance of the City 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 (1) 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 (2) is required by, or better complies with, the provisions of paragraph (b)(5) of the Rule, assuming that such provisions apply to the Series 2023A Bonds. If this Continuing Disclosure Undertaking (and the form and requirements of the Disclosure Information) are 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) This Continuing Disclosure Undertaking is entered into as a continuing disclosure undertaking to provide continuing disclosure identical to that required by the continuing disclosure provisions of the Rule and should be construed so this Continuing Disclosure Undertaking would satisfy the requirements of paragraph (b)(5) of the Rule, assuming it was otherwise applicable to the Series 2023A Bonds.

(e) Further Limitation of Liability of City. None of the agreements or obligations of the City contained in this Continuing Disclosure Undertaking shall be construed to constitute an indebtedness of the City within the meaning of any constitutional or statutory provisions whatsoever or constitute a pledge of the general credit or taxing powers of the City.

CITY OF BILLINGS, MONTANA

By _____
City Administrator

By _____
City Finance Director