

CERTIFICATE AS TO RESOLUTION

I, the undersigned, being the duly qualified and acting recording officer of the City of Billings, Montana (the "City"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO A PROJECT ON BEHALF OF ROSE PARK PLAZA PARTNERS LTD., RLLLP AND THE ISSUANCE OF REVENUE BONDS OR NOTES TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; GRANTING PRELIMINARY APPROVAL THERETO AND CALLING A PUBLIC HEARING THEREON" (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 August 23, 2004, and that the meeting was duly held by the City Council and was attended throughout by a quorum, pursuant to call and notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.

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

WITNESS my hand officially this 23rd day of August, 2004.

(SEAL)



Auson Shullen
City Clerk
Deputy City Clerk

RESOLUTION NO. 04-18172

RESOLUTION RELATING TO A PROJECT ON BEHALF OF ROSE PARK PLAZA PARTNERS LTD., RLLLP AND THE ISSUANCE OF REVENUE BONDS OR NOTES TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; GRANTING PRELIMINARY APPROVAL THERETO AND CALLING A PUBLIC HEARING THEREON

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

Section 1. Recitals.

1.01. Pursuant to Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended (the "Act"), the City is authorized to enter into agreements upon terms the Council considers appropriate, advantageous and not in conflict with the provisions of the Act to issue revenue bonds of the City and sell such bonds at public or private sale in such manner and at such times as may be determined by the Council to be most advantageous; and to loan the proceeds of its revenue bonds for the purpose of defraying the cost of acquiring or improving real and personal properties suitable for use for, among other things, commercial enterprises and multifamily housing, or to refund bonds or notes issued under the Act. Such revenue bonds may be secured by a pledge of the revenues to be derived by the City from a loan agreement with the borrower, by a mortgage on the project and by such other security devices as the Council may deem advantageous. Under the provisions of the Act, any bonds so issued by the City shall be special, limited obligations of the City and shall not constitute or give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

1.02. It has been proposed that the City, pursuant to the Act, issue its revenue bonds or notes in the approximate aggregate principal amount of \$6,200,000, in one or more series at one time or from time to time (the "Bonds"), the proceeds of which will be loaned by the City to Rose Park Plaza Partners Ltd., RLLLP, a Colorado registered limited liability partnership (the "Borrower"), to finance a portion of the costs to be incurred by the Borrower in the acquisition, remodeling and rehabilitation of a 112-unit multifamily rental housing complex and related improvements commonly known as Rose Park Plaza Apartments (the "Project"). The general partner of the Borrower is Little Creek Land, LLC, a Colorado limited liability company. The Project is located on a parcel of land at 2325 Avenue C, in Billings, Montana. It is anticipated that the Project will constitute a "qualified residential rental project" within the meaning of the Internal Revenue Code of 1986, as amended (the "Code"), and related Treasury Regulations and that, among other things, either (i) 20% or more of the residential units in the Project will be occupied by individuals whose income is 50% or less of the area median gross income, or (ii) 40% or more of the units in the Project will be occupied by persons whose income is 60% or less of the area median gross income, as defined by the Code. The maximum aggregate principal amount of the proposed bond or note issue or issues in one or more series at one time or from time to time is \$6,200,000.

Section 2. Preliminary Findings. Based on representations made by representatives of the Borrower to the City, the Council hereby makes the following preliminary findings, determinations and declarations, subject to final findings, determinations and declarations following the public hearing called pursuant to Section 4:

- (a) The Project, as proposed, will be suitable for use as a commercial enterprise and multifamily housing project eligible for financing under the Act.
- (b) The City is authorized by the Act to issue its revenue bonds to defray the costs of making a loan to the Borrower, the proceeds of which will be used to finance part or all of the costs of acquiring, developing, constructing, furnishing, and equipping the Project and the costs and expenses incident to the issuance and sale of the Bonds, and to enter into an agreement with the Borrower requiring loan repayments from the Borrower in amounts and at times sufficient to pay the principal of and interest on the Bonds when due and requiring the Borrower to pay all costs of maintaining and insuring the Project, including taxes thereon.
- (c) In preliminarily authorizing the development, construction, and equipping of the Project and the issuance of the Bonds, the City's purpose is and the Council believes the effect thereof will be to promote the public welfare of the City and its residents by providing housing facilities for residents of the City, including particularly persons of lower income, providing additional employment during construction or rehabilitation of the Project, promoting and stimulating economic activity within the City, providing a better balanced tax base of the City and overlapping taxing jurisdictions, and otherwise furthering the purposes and policies of the Act.

(d) The undertaking of the Project and the issuance of the Bonds to finance all or a portion of the costs thereof are in the public interest.

Section 3. Preliminary Approval. This Council hereby gives preliminary approval to the Project and the issuance of the Bonds in one or more series and from time to time in the approximate aggregate principal amount of \$6,200,000 to finance all or a portion of the costs thereof, subject to final approval following the public hearing provided for in Section 4, and subject to final determination by the Council that the financing of the Project and the issuance of the Bonds are in the best interest of the City.

Section 4. Public Hearing. Section 90-5-104 of the Act requires that, prior to the issuance of the Bonds, a public hearing duly noticed shall be held by the Council on the proposed Project and the issuance of the Bonds to finance the costs thereof. Pursuant to such authority, a public hearing on the proposed Project and the issuance of the Bonds to finance the costs thereof shall be held by the Council on September 27, 2004, at 6:30 p.m., in the Council Chambers, 2nd Floor of the Police Facility, 220 North 27th Street, Billings, Montana.

Section 5. Notice of Hearing. The City Clerk is hereby authorized and directed to cause notice of the public hearing to be published in the *The Billings Times*, the official newspaper of the City, once a week for three consecutive weeks before the date of the hearing, as required by Section 90-5-104(1) of the Act. The notice shall be published in substantially the form attached hereto as Exhibit A hereto (which is incorporated by reference and made a part hereof).

Section 6. Costs. The Borrower will pay, or upon demand reimburse the City for payment of, any and all costs incurred by the City in connection with the Project and the issuance of the Bonds, whether or not the Project is carried to completion and whether or not the Bonds are issued, including without limitation, the City's initial fee and administrative fee in connection with the Bonds.

Section 7. Commitment Conditional. The adoption of this resolution does not constitute a guarantee or a firm commitment that the City will issue the Bonds as requested by the Borrower. If, based on comments received at the public hearing to be held pursuant to this resolution or other information made available to or obtained by the City during its review of the Project, it appears that the Project or the issuance of Bonds to finance the costs thereof is not in the public interest or is inconsistent with the purposes of the Act or cannot be practicably achieved, the City reserves the right not to authorize the issuance of the Bonds. The City also retains the right, in its sole discretion, to withdraw from participation and accordingly not issue the Bonds if the Council, at any time prior to the issuance thereof, determines that it is in the best interests of the City not to issue the Bonds or if the City and other parties to the transaction are unable to reach agreement as to the terms and conditions of any of the documents for the transaction.

Section 8. Reimbursement of Costs Paid Before Bonds Are Issued.

(a) The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, such as the Bonds, all or a portion of which are to be used to reimburse the Borrower for Project expenditures paid by the Borrower prior to the date of issuance of the Bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the City adopt a statement of official intent to reimburse the Borrower from proceeds of the Bonds for an original expenditure not later than 60 days after payment of the original expenditure. Representatives of the Borrower have advised the City that the Borrower may undertake the Project and pay costs thereof before the Bonds are issued, recognizing the preliminary and conditional nature of the commitment of the City to issue the Bonds.

The Regulations also generally require that the Bonds be issued and the reimbursement allocation be made from the proceeds of the Bonds within 18 months after the later of (i) the date the expenditure is paid or (ii) the date the Project is placed in service or abandoned, but in no event more than three years after the date the expenditure is paid. The Regulations generally permit reimbursement of capital expenditures and costs of issuance of the Bonds.

(b) By this resolution and based on representations of the Borrower, the City declares its official intent to reimburse the expenditures made for costs of the Project from proceeds of the Bonds after the date of payment of all or a portion of the costs of the Project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

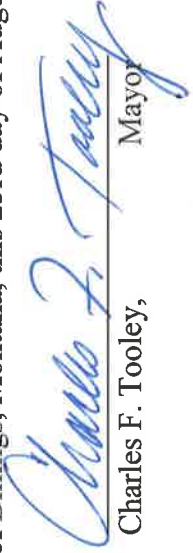
(c) Based on representations of the Borrower, other than (i) expenditures to be paid or reimbursed from sources other than the Bonds, (ii) expenditures permitted to be reimbursed under the transitional provision contained in Section 1.150-2(j)(2) of the Regulations, (iii) expenditures constituting preliminary expenditures within the meaning of Section 1.150-2(f)(2) of the Regulations, or (iv) expenditures in a "de

minimum" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Project have heretofore been paid by the Borrower.

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

Passed by the City Council of the City of Billings, Montana, this 23rd day of August, 2004.




Charles F. Tooley,
Mayor

Attest: 
Marita Herold, CMC/AEE City Clerk
Deputy City Clerk