

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 \$5,200,000 GENERAL OBLIGATION BONDS, SERIES 2004A; AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF" (the "Resolution"), on file in the original records of the City in my legal custody; that the Resolution was duly adopted by the City Council at a regular meeting on September 27, 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notice of such meeting given as required by law; and that the Resolution has not as of the date hereof been amended or repealed.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 \_\_\_\_\_; abstained from \_\_\_\_\_; voted against the same: \_\_\_\_\_ none \_\_\_\_\_; abstained from \_\_\_\_\_; voted thereon: \_\_\_\_\_ none \_\_\_\_\_; or were absent: \_\_\_\_\_ none \_\_\_\_\_.

WITNESS my hand and seal officially this 27th day of September, 2004.

(SEAL)



*Marita Herold*  
\_\_\_\_\_  
Marita Herold, CMC/AAE City Clerk

RESOLUTION NO. 04-18197

RESOLUTION RELATING TO \$5,200,000 GENERAL OBLIGATION BONDS, SERIES 2004A; AUTHORIZING THE ISSUANCE AND CALLING FOR THE PUBLIC SALE THEREOF

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

Section 1. Recitals. The electors of the City at an election duly called, noticed and held on November 4, 2003, at which 11,261 of the 49,814 registered electors voted (23% of the registered electors voted), by a vote of 6,182 in favor, 5,079 opposed (55% of the votes cast were in favor), authorized this Council to issue and sell \$5,200,000 principal amount of general obligation bonds of the City for the purpose of paying for a portion of the costs of the improvements to certain major arterials in the City consisting of widening, paving, realigning and installing sidewalks, storm drains, curbs and gutters on Alkali Creek Road from the Airport Road Intersection to Senators Boulevard Intersection; on Arlene Corridor from Poly Drive to Broadwater Avenue which results in a north to south connection from Highway 3 to I-90; and on South Billings Boulevard from Laurel Road to King Avenue East Intersection (the "Project"), and paying costs associated with the sale and issuance of the bonds. The City has determined that it is necessary and desirable and in the best interests of the City to issue the bonds at this time in the aggregate principal amount of \$5,200,000 (the "Bonds").

The indebtedness to be evidenced by the Bonds and all other indebtedness of the City does not exceed the limitation set forth in Title 7, Chapter 7, Part 4201, M.C.A.

Section 2. Term of the Bonds. Pursuant to the authority described in Section 1, this Council hereby authorizes the issuance and sale of the Bonds of the City in the aggregate principal amount of \$5,200,000 for the purpose of financing the costs of the Project and paying costs associated with the sale and issuance of the Bonds. The Bonds shall be dated, as originally issued, as of November 1, 2004, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing July 1, 2005, at a rate or rates designated by the successful bidder at public sale and approved by this Council; provided that no rate of interest shall exceed six and one-half percent (6.50%) per annum. Each rate must be expressed in an integral multiple of 1/8 or 1/20 of 1% and shall be bid in level or ascending rates. The Bonds shall be offered and sold in accordance with the terms and conditions of sale which are set forth on Exhibit A hereto (the "Official Terms and Conditions"), which is incorporated by reference and made a part hereof.

The Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005	\$250,000	2015	\$250,000
2006	190,000	2016	260,000
2007	195,000	2017	270,000
2008	200,000	2018	280,000
2009	205,000	2019	295,000
2010	210,000	2020	305,000
2011	220,000	2021	320,000
2012	225,000	2022	335,000
2013	235,000	2023	350,000
2014	240,000	2024	365,000

Proposals for the Bonds may contain a maturity schedule providing for a combination of serial bonds and term bonds. All term bonds shall be subject to mandatory sinking fund redemption and must conform to the maturity schedule set forth above at a price of par plus accrued interest to the date of redemption. In order to designate term bonds, the bid must specify "Years of Term Maturities" in the spaces provided on the Bid Form.

If issued as serial bonds, the Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds shall be issuable only as fully registered bonds and shall be executed by the manual or facsimile signatures of the Mayor, the Deputy City Administrator and the City Clerk. The Bonds shall be issued only in "book entry" form.


Section 3. Public Sale. The Bonds shall be sold at a sale on the basis of sealed bids which is hereby called for on October 25, 2004, at 11:00 a.m., M.T. The City will receive sealed bids for the Bonds in accordance with the Official Terms and Conditions. The City Clerk is hereby authorized and directed to cause notice of the sale to be published, as required by Montana Code Annotated, Sections 7-7-4252 and 17-5-106, in *The Billings Times*, a newspaper of general circulation in Yellowstone County, Montana, once each week for two successive weeks preceding the week which contains the date of sale. The notice of sale shall be published in substantially the form set forth as Exhibit B to this resolution, which is hereby incorporated herein and made a part hereof.

Section 4. Official Statement. The Deputy City Administrator and other officers of the City are hereby authorized and directed to prepare on behalf of the City an official statement to be distributed to potential purchasers of the Bonds. Such official statement shall contain the Official Terms and Conditions and such other information as shall be advisable and necessary to describe accurately the City and the security for, and terms and conditions of, the Bonds.

Section 5. Continuing Disclosure. In order to permit bidders for the Bonds and other 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 (the "Rule"), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

Section 6. Proceedings to the Attorney General. The City Clerk is hereby authorized and directed to furnish a certified copy of all proceedings taken by the City with respect to the issuance of the Bonds, including proceedings through the date hereof, to the Attorney General for examination and request a report as to the validity of the Bonds, as required by Montana Code Annotated, Section 7-7-101.

PASSED by the City Council of Billings, Montana, this 27th day of September, 2004.

  
\_\_\_\_\_  
Mayor

Deputy Mayor in the absence of the Mayor

Attest: Marita Herold  
City Clerk



(SEAL)

EXHIBIT A

TERMS AND CONDITIONS OF SALE

\$5,200,000 General Obligation Bonds, Series 2004A  
City of Billings, Montana

NOTICE IS HEREBY GIVEN by the City Council (the "Council") of the City of Billings, Montana (the "City"), that the City will receive sealed bids for the purchase of general obligation bonds in the total principal amount of \$5,200,000 (the "Bonds"), in the City Clerk's office, 1<sup>st</sup> Floor of Park III, at 210 North 27<sup>th</sup> Street, Billings, Montana, or bids for the purchase of the Series 2004A Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on October 25, 2004, at which time the bids will be opened and tabulated. The City Council of the City will meet at 6:30 p.m., M.T., on the same day in Council Chambers, 2<sup>nd</sup> Floor of the Police Facility, 220 North 27<sup>th</sup> Street, Billings, Montana, to consider the bids, and if a responsive and acceptable bid is received, award sale of the Bonds to the responsive bidder whose bid reflects the lowest true interest cost (TIC).

THE BONDS

The Bonds will bear an original issue date of November 1, 2004, and will bear interest payable semiannually on January 1 and July 1 of each year, commencing July 1, 2005, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month, at a rate or rates designated by the successful bidder at public sale and approved by the Council; provided that no rate of interest shall exceed six and one-half percent (6.50%) per annum. Each rate must be expressed in an integral multiple of 1/8 or 1/20 of 1% and shall be bid in level or ascending rates. No supplemental or "B" coupons or additional interest certificates are permitted. All Bonds of the same stated maturity must bear interest from date of original issue until paid at a single, uniform rate. Interest will be calculated on the basis of a 360-day year consisting of twelve 30-day months.

The Bonds shall mature, subject to redemption as hereinafter provided, on July 1 in each of the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005	\$250,000	2015	\$250,000
2006	190,000	2016	260,000
2007	195,000	2017	270,000
2008	200,000	2018	280,000
2009	205,000	2019	295,000
2010	210,000	2020	305,000
2011	220,000	2021	320,000
2012	225,000	2022	335,000
2013	235,000	2023	350,000
2014	240,000	2024	365,000

Proposals for the Bonds may contain a maturity schedule providing for a combination of serial bonds and term bonds. All term bonds shall be subject to mandatory sinking fund redemption and must conform to the maturity schedule set forth above at a price of par plus accrued interest to the date of redemption. In order to designate term bonds, the bid must specify "Years of Term Maturities" in the spaces provided on the Bid Form.

If issued as serial bonds, the Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds will be issued as fully registered bonds only and shall be executed by the manual or facsimile signatures of the Mayor, Deputy City Administrator and the City Clerk. The Bonds shall be issued only in "book entry" form.

The Bonds with stated maturities on or after July 1, 2015 will be subject to redemption on July 1, 2014, 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 and, within a stated maturity, in \$5,000 principal amounts, selected by lot or other manner deemed fair, at a redemption price equal to the principal amount thereof to be redeemed plus interest accrued to the redemption date, without premium.

PURPOSE AND SECURITY

The Bonds will be issued for the purpose of paying for a portion of the costs of the improvements to certain major arterials in the City consisting of widening, paving, realigning and installing sidewalks, storm

drains, curbs and gutters on Alkali Creek Road from the Airport Road Intersection to Senators Boulevard Intersection; on Arlene Corridor from Poly Drive to Broadwater Avenue which results in a north to south connection from Highway 3 to I-90; and on South Billings Boulevard from Laurel Road to King Avenue East Intersection, and paying costs associated with the sale and issuance of the bonds. The Bonds will be general obligations of the City to the payment of which the full faith, credit and taxing power of the City will be pledged. Bidders should consult a copy of the Preliminary Official Statement for a discussion of the security for the Bonds and the form of opinion of bond counsel relating to the Bonds.

#### CONTINUING DISCLOSURE

In order to permit bidders for the Bonds and other 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 (the "Rule"), the City will covenant and agree, for the benefit of the registered holders and beneficial owners from time to time of the outstanding Bonds, in the resolution prescribing the terms of the Bonds, to provide annual reports of specified information and notice of the occurrence of certain events, if material. The City is the only "obligated person" in respect of the Bonds within the meaning of the Rule for the purposes of disclosing information on an ongoing basis. A description of the undertaking is set forth in the Official Statement. Failure of the City to enter into an undertaking substantially similar to that described in the Official Statement would relieve the successful bidder of its obligation to purchase the Bonds. The City has complied in all material respects with any undertaking previously entered into by it under the Rule.

#### BIDDING AND SALE PROCEDURES

**Submission of Bids.** Unless bids are transmitted electronically as hereafter provided, bids, sealed bids for not less than \$5,137,600 must be mailed or delivered to the undersigned and must be received at the office of the City Clerk prior to the time stated above. Bidders must bid for all or none of the Bonds. Each bid must be unconditional (or conditioned on only those items specified in these Official Terms and Conditions of Sale). No bid may be altered or withdrawn after the time specified above for opening bids without the express consent of the Council. Bids may be transmitted electronically through Parity™ in accordance with these terms and conditions.

**Basis of Award.** The Bonds will be sold for not less than \$5,137,600 with accrued interest to the date of delivery, and all bidders must state the lowest rate or rates of interest at which they will purchase the Bonds. Bids will be compared on the basis of true interest cost (TIC). The TIC is the net present value of total interest on all Bonds from their dated date to their maturities, less any premium or plus any discount. In the event that two or more bids state the lowest true interest cost, the sale of the Bonds will be awarded by lot. The City will accept sealed bids or bids transmitted electronically through the Parity™ system only. The City reserves the right to reject any and all bids and to sell the Bonds at private sale and to waive any informality and irregularity in any and all bids.

**Electronic Transmission.** To the extent any instructions or directions set forth in Parity™ conflict with these Terms and Conditions of Sale, the terms of these Terms and Conditions of Sale shall control. For further information about Parity™, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3030 (Bond Services Division), or Parity™ at (212) 849-5000 (Client Services). In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Debt Investment Coordinator, Teri Kiedrowski, at facsimile number (406) 247-8608 (phone (406) 657-8363).

**Good Faith Deposit.** A good faith deposit (the "Deposit") in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$104,000 payable to the order of the City of Billings, Montana is required for each bid to be considered. If money, cashier's check, certified check, bank money order, or bank draft is used, it must accompany each bid and be delivered to the City Clerk. If a financial surety bond is used, it must be from an insurance company licensed and qualified to issue such a bond in the State of Montana and such bond must be submitted to the City Clerk prior to the opening of the bids. The financial surety bond must identify each bidder whose Deposit is guaranteed by such financial surety bond. If the Bonds are awarded to a bidder utilizing a financial surety bond, then that purchaser is required to submit its Deposit to the City in the form of a cashier's check (or wire transfer such amount as instructed by the City or its financial advisor) not later than 11:00 A.M., M.T., on the next business day following the award. If such Deposit is not received by that time, the financial surety bond may be drawn by the City to satisfy the Deposit requirement. No interest on the Deposit will accrue to the purchaser. The Deposit will be applied to the purchase price of the Bonds. In the event the purchaser fails to honor its accepted bid, the Deposit will be retained by the City as liquidated damages. The Deposit of the unsuccessful bidders will be returned immediately on



award of sale of the Bonds or after rejection of all bids. Instructions for wiring the Deposit may be obtained from the City's Debt Investment Coordinator, Teri Kiedrowski, 210 North 27<sup>th</sup> Street, Billings, Montana 59101, telephone (406) 657-8363.

**Municipal Bond Insurance.** The City is applying for municipal bond insurance. If the City qualifies for municipal bond insurance, the underwriter will have the option to insure the bonds by paying the premium for the insurance policy in addition to applicable rating agency fees.

BOND REGISTRAR, TRANSFER AGENT  
AND PAYING AGENT

The City will designate and contract with a suitable bank or trust company to act as bond registrar, transfer agent and paying agent (the "Registrar"). The bond register will be kept, transfers of ownership will be effected and principal of and interest on the Bonds will be paid by the Registrar. The City will pay the charges of the Registrar for such services. The City reserves the right to remove the Registrar and to appoint a successor.

LEGAL OPINION

As a condition to the City's obligation to deliver the Bonds, an opinion as to the validity of the Bonds and the exclusion from gross income for federal and Montana income tax purposes of the interest thereon will be furnished by Dorsey & Whitney LLP, of Missoula, Montana, and Minneapolis, Minnesota, as Bond Counsel. The legal opinion will be delivered at the time of closing. The legal opinion will state that the Bonds are valid and binding general obligations of the City enforceable in accordance with their terms, except to the extent to which enforceability thereof may be limited by the exercise of judicial discretion or by state or federal laws relating to bankruptcy, reorganization, moratorium or creditors' rights.

DELIVERY

Not less than 30 days nor more than 45 days after the sale, the City will deliver to the Registrar the Bonds ready for completion and authentication. The original purchaser of the Bonds must notify the Registrar, at least five business days before issuance of the Bonds, of the persons in whose names the Bonds will be initially registered and the denominations of the Bonds to be originally issued. If notification is not received by that date, the Bonds will be registered in the name of the original purchaser and will be issued in denominations corresponding to the principal maturities of the Bonds. On the day of closing, the City will furnish to the purchaser the opinion of Bond Counsel described above, an arbitrage certification and a certificate stating that no litigation in any manner questioning the validity of the Bonds is then pending or, to the best knowledge of officers of the City, threatened. Payment for the Bonds must be received by the City in immediately available funds at its designated depository on the day of closing. The successful bidder shall submit to the City Clerk not earlier than 48 hours after the award of sale and not later than the date of closing a certificate, in form satisfactory to Bond Counsel, as to the initial reoffering prices of each stated maturity of the Bonds and stating that at least ten percent of the principal amount of such Bonds of each stated maturity has been sold at such respective prices.

OFFICIAL STATEMENT

The City will prepare an Official Statement relating to the Bonds which the City will deem, for purposes of SEC Rule 15c2-12, to be final as of its date. The City will deliver, at closing, a certificate executed by the Mayor, Deputy City Administrator and the City Clerk to the effect that, to the best of their knowledge, as of the date of closing, the information contained in the Official Statement, including any supplement thereto, does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances in which they are made, not misleading; provided that no comment will be made with respect to any information provided by the successful bidder for inclusion in any supplement to the Official Statement.

By submitting a bid for the Bonds, the successful bidder agrees: (1) to disseminate to all members of the underwriting syndicate copies of the Official Statement, including any supplements prepared by the City, (2) to file promptly a copy of the Official Statement, including any supplement prepared by the City, with a nationally recognized municipal securities repository, and (3) to take any and all other actions necessary to comply with applicable rules of the Securities and Exchange Commission and the Municipal Securities Rulemaking Board governing the offering, sale and delivery of the Bonds to ultimate purchasers.

Within seven business days after the sale the City will furnish to the successful bidder without charge up to 200 copies of the final Official Statement relating to the Bonds. The successful bidder must notify the City Clerk in writing within three business days after the award of sale of the Bonds if it requires additional copies of the Official Statement. The cost of additional copies shall be paid by the successful bidder.

EXHIBIT B  
NOTICE OF BOND SALE

\$5,200,000 General Obligation Bonds, Series 2004A  
City of Billings, Montana

NOTICE IS HEREBY GIVEN that the City Council (the "Council") of the City of Billings, Montana (the "City"), will receive sealed bids for the purchase of \$5,200,000 General Obligation Bonds, Series 2004A (the "Bonds") in the City Clerk's office, 1<sup>st</sup> Floor of Park III, at 210 North 27<sup>th</sup> Street, Billings, Montana, 59103, or bids for the purchase of the Series 2004A Bonds will be received by electronic transmission through Parity™, in either case until 11:00 a.m., M.T., on October 25, 2004, at which time the bids will be opened and tabulated. The Council will meet at 6:30 p.m., M.T., on the same day in the City Council Chambers to consider the bids. Bids will be considered on the basis of true interest cost (TIC).

The Bonds will be issued for the purpose of paying for a portion of the costs of the improvements to certain major arterials in the City consisting of widening, paving, realigning and installing sidewalks, storm drains, curbs and gutters on Alkali Creek Road from the Airport Road Intersection to Senators Boulevard Intersection; on Arlene Corridor from Poly Drive to Broadwater Avenue which results in a north to south connection from Highway 3 to I-90; and on South Billings Boulevard from Laurel Road to King Avenue East Intersection, and paying costs associated with the sale and issuance of the bonds. Bonds will be issuable in the denominations of \$5,000 or any integral multiple thereof of single maturities, and will mature on July 1, subject to redemption as hereinafter described, in the following years and amounts (unless combined into one or more term bonds):

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
2005	\$250,000	2015	\$250,000
2006	190,000	2016	260,000
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2011	220,000	2021	320,000
2012	225,000	2022	335,000
2013	235,000	2023	350,000
2014	240,000	2024	365,000

Proposals for the Bonds may contain a maturity schedule providing for a combination of serial bonds and term bonds. All term bonds shall be subject to mandatory sinking fund redemption and must conform to the maturity schedule set forth above at a price of par plus accrued interest to the date of redemption. In order to designate term bonds, the bid must specify "Years of Term Maturities" in the spaces provided on the Bid Form.

If issued as serial bonds, the Bonds shall be in the denomination of \$5,000 each or any integral multiple thereof of single maturities.

The Bonds shall be issuable as fully registered bonds only, shall bear an original issue date of November 1, 2004, and shall bear interest payable semiannually on January 1 and July 1 of each year, commencing July 1, 2005, to the registered owners of the Bonds as such appear in the bond register as of the close of business on the 15th day (whether or not a business day) of the immediately preceding month. No interest rate may exceed six and one-half percent (6.50%) per annum. Each rate must be expressed in an integral multiple of 1/8 or 1/20 of 1% and shall be bid in level or ascending rates. No supplemental or "B" coupons or additional interest certificates are permitted. The Bonds maturing on or after July 1, 2015 will be subject to redemption on July 1, 2014, and any date thereafter, from such stated maturities and in such principal amounts as may be designated by the City and, within a stated maturity, by lot or other manner deemed fair, at a redemption price equal to the principal amount to be redeemed plus accrued interest to the redemption date, without premium.

The Bonds will be sold for not less than \$5,137,600 with accrued interest on the principal amount of the Bonds to the date of their delivery. The Council reserves the right to reject any and all bids and to sell the Bonds at private sale.

A good faith deposit in the form of money, cashier's check, certified check, bank money order, or bank draft drawn and issued by a federally chartered or state chartered bank insured by the Federal Deposit Insurance Corporation or a financial surety bond in the sum of \$104,000 payable to the order of the City of

Billings, Montana, is required for each bid to be considered, as further specified in the Official Terms and Conditions of Sale.

Copies of a statement of the Official Terms and Conditions of Sale and additional information may be obtained from Springsted Incorporated, 85 East 11<sup>th</sup> Place, Suite 101, St. Paul, Minnesota 55101, (651) 223-3000. Prospective bidders should consult the Official Terms and Conditions of Sale and the Preliminary Official Statement for a description of the Bonds, the security therefor, and the form of legal opinion proposed to be rendered by Dorsey & Whitney LLP, of Missoula, Montana, as bond counsel. To the extent any instructions or directions set forth in Parity<sup>TM</sup> conflict with this Notice of Bond Sale, the terms of this Notice of Bond Sale shall control. For further information about Parity<sup>TM</sup>, potential bidders may contact the Financial Advisor, Springsted Incorporated at (651) 223-3030 (Bond Services Division), or Parity<sup>TM</sup> at (212) 849-5000 (Client Services). In the event of a malfunction in the electronic bidding process, bidders may submit their bids by sealed bid including facsimile transmission to the City's Debt Investment Coordinator, Teri Kiedrowski, at facsimile number (406) 247-8608 (phone (406) 657-8363).

Dated: \_\_\_\_\_, 2004.

BY ORDER OF THE CITY COUNCIL

\_\_\_\_\_  
Marita Herold, City Clerk  
City of Billings, Montana

Publish:   October 14, 2004  
              October 21, 2004