

RESOLUTION NO. 11-2014

RESOLUTION MAKING FINDINGS WITH REGARDS TO AND AUTHORIZING A PROJECT UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AND THE ISSUANCE AND SALE BY FERGUS COUNTY OF A \$4,500,000 HOSPITAL REVENUE NOTE (CENTRAL MONTANA MEDICAL CENTER PROJECT), SERIES 2014, TO FINANCE THE EXPANSION OF AND REMODELING OF A PORTION OF THE CENTRAL MONTANA MEDICAL CENTER'S FACILITY FOR NEW EMERGENCY AND LABORATORY DEPARTMENTS; APPROVING THE FORM OF DOCUMENTATION IN CONNECTION THEREWITH AND AUTHORIZING THE EXECUTION AND DELIVERY OF THE NOTE AND DOCUMENTATION THEREFOR; AND DESIGNATION OF THE NOTE AS A QUALIFIED TAX-EXEMPT OBLIGATION

BE IT RESOLVED by the Board of County Commissioners of Fergus County, Montana (the County), as follows:

Section 1. Authorization and Recitals.

1.01. General Authority. The County is authorized by Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended (the "Act"), to issue revenue notes or bonds for the purposes of paying the costs of acquiring or improving projects consisting of real and personal properties suitable for use as medical facilities upon such terms and conditions as the governing body of the County shall deem advisable and as shall not conflict with the provisions of the Act.

1.02. Proposed Project and Note. Representatives of Central Montana Medical Center, Inc., a Montana nonprofit corporation (the Corporation), have proposed that the County, acting under and pursuant to the Act, issue and sell to First Bank of Montana, a Division of Glacier Bank, (the Purchaser), its \$4,500,000 Hospital Revenue Note (Central Montana Medical Center Project), Series 2014, (the "Note"), for the purposes of paying a portion of the costs of construction and financing of new emergency and laboratory departments expansion and remodeling the Corporation's existing facility at 408 Wendell Avenue in Lewistown, Montana (collectively the "Project"). The Project will be owned by the Corporation. Pursuant to the Corporation's proposal: the proceeds of the Note will be loaned to the Corporation (the "Loan") pursuant to a Loan Agreement between the County and the Corporation (the "Loan Agreement"); the Corporation will agree to apply the proceeds of the Loan to the payment of costs of the Project and to repay the Loan at such times and in such amounts as necessary to provide for the prompt payment of the principal of and interest on the Note; to secure the Loan, the Corporation will grant a Deed of Trust or Mortgage and Security Interest in the Project to the County (the "Security Agreement"); the County will assign to the Purchaser, the County's interest in and to the Loan Agreement including all loan repayments thereunder (but excluding the right of the County to reimbursement of expenses and to indemnification) and the Security Agreement to secure the full and prompt payment of the principal of and interest on the Note; and the

Corporation will be obligated to pay all costs of the Project in excess of the proceeds of the Note available therefor.

In accordance with Section 90-5-103, MCA, the Note will be a limited obligation of the County payable solely from and secured by the payments to be made by the Corporation under the Loan Agreement and proceeds and revenues from the Project and will not constitute or give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

1.03. Public Hearing. On March 10, 2014, the County by Resolution No. _____ called for a public hearing on the Project and the issuance of up to \$4,500,000 in principal amount of the Note, as required by the Act and Section 147(f) of the Internal Revenue Code of 1986 (the "Code"). The public hearing was duly noticed and held April 10, 2014, at which time all interested persons were given the opportunity to appear and be heard and to submit written comments. This Board, after the public hearing, makes the findings described in Section 2 hereof and approves the issuance of the Note as a result of such hearing, under the Act and in accordance with the Corporation's proposal.

1.04. Project Cost and Source of Funding. The Corporation has advised the County, and the County hereby finds that the current estimated costs of the Project are \$5,094,717 which consists of the following elements:

Construction & Contingency	\$4,184,307
Architect/Engineering/Surveying/Inspections	\$407,700
Costs of Note Issuance & Title Insurance/Appraisal	\$52,000
Additional Parking lot Costs	\$218,000
CAT Scan Renovations	\$232,710
Total Uses of Funds	<u>\$5,094,717</u>

The Corporation has advised the County that it has signed a construction contract with Birdwell Builders, Inc., of Lewistown, Montana, for the Project within the amount of construction and contingency shown above. The Corporation also advised the County that it has sufficient funds available from fund raising efforts and available cash to complete the Project. The Corporation currently intends to request an additional bond issuance in another year for equipment which will relate to this Project.

1.05. Documentation. Draft forms of the following documents relating to the Project and the Note have been prepared and submitted to the County, and, when they are in final, executed form, and approved by bond counsel, one copy will be made available to the County:

- (a) the Loan Agreement;
- (b) the Assignment of the Loan Agreement from County to Purchaser;
- (c) the Security Agreement;
- (d) Assignment of County's interest in the Security Agreement to Purchaser; and

- (e) a Specimen Note.

Section 2. Findings.

It is hereby found, determined and declared that:

(a) The Project, when completed, comprises real and personal properties which are and shall be suitable for use as medical facilities as contemplated by the Act;

(b) In authorizing the Project, the County's purpose is, and in its judgment the effect thereof will be, to promote the public welfare by encouraging the undertaking of the Project thereby encouraging the provision of necessary health facilities, to the end that adequate services be made available to persons who are residents of the County at a reasonable cost;

(c) The Project, the issuance and sale of the Note, the execution and delivery of the Loan Agreement and the Security Agreement and the performance of all covenants and agreements of the County contained in the Loan Agreement and the Security Agreement and all other acts and things required under the Constitution and laws of the State of Montana to make the Note the valid and binding special obligation of the County in accordance with their terms, are authorized by the Act and other applicable law;

(d) The issuance and sale of the Note and the financing of the Project for the benefit of the Corporation are in the public interest of the County and its citizens;

(e) The monthly Loan payment will be sufficient to pay the principal and interest as required in the Loan Agreement on the Note over a thirty year term at the fixed interest rate of 3.95% per annum, with a balloon payment due in 20 years;

(f) Due to the financial strength and the history of the Corporation and the wishes of the Purchaser, no reserve funds will be required for payment of the Note or maintenance of the Project, but the Corporation will be required to abide by the covenants in the Loan Agreement and the Security Agreement;

(g) The Loan repayments and other amounts to be paid by the Corporation under the Loan Agreement are sufficient (1) to pay the total principal of and interest on the Note when due, (2) to pay any taxes on the Project, which Project during the term of the Loan Agreement shall be subject to taxation to the same extent, in the same manner, and under the same procedures as privately owned property in similar circumstances, and (3) to pay all other costs and expenses of the County in connection with the Project and the issuance of the Note. The Loan Agreement also provides that the Corporation is required to pay or cause to be paid all expenses of the operation and maintenance of the Project, including, but without limitation,

adequate insurance thereon and insurance against all liability for injury to persons or property arising from the operation thereof;

(h) Under the provisions of Montana Code Annotated, Sections 90-5-103 and 90-5-105, and as provided in the Loan Agreement, the Security Agreement and the Note, the Note is a limited obligation of the County payable solely from Loan repayments made by the Corporation (except to the extent payable from proceeds of the Note or the condemnation or insurance proceeds therefrom) and does not constitute a pecuniary liability of the County or a charge against its general credit or taxing powers.

Section 3. Authorization and Approval.

The County is hereby authorized to finance the costs of the Project, as presently estimated under Section 1.04 and to pledge and assign the Loan Agreement and the loan repayments due thereunder, all as provided in the Loan Agreement. The forms of the Loan Agreement, the Security Agreement, the Assignment of the Loan Agreement and the Note referred to in Section 1.05 are approved, subject to such modifications as are deemed appropriate and approved by Bond Counsel and the Chairman of the Board of County Commissioners, which approval shall be conclusively evidenced by execution of the said documents. The Loan Agreement and the Security Agreement as so approved are directed to be executed in the name and on behalf of the County by the Chairman of the Board of County Commissioners and the County Clerk and Recorder. Copies of all the documents shall be delivered, filed and recorded as provided therein. The Chairman of the Board of County Commissioners and the County Clerk and Recorder are also authorized and directed to execute such other instruments as may be required to give effect to the transaction herein contemplated.

Section 4. No Official Statement. The Note is being sold to the Purchaser and the Purchaser has made its own investigation of the terms of the Note and credit worthiness of the Corporation. The County will not deliver an Official Statement nor provide continuing disclosure under the exemptions and provisions of 17 CFR 240.15c2-12.

Section 5. The Note: Term and Interest Rate; Prepayment; Sale and Execution and Form.

5.01. **Authorization.** In anticipation of the receipt of the loan repayments from the Corporation, the County shall proceed forthwith to issue its Hospital Revenue Note (Central Montana Medical Center Project), Series 2014, dated, as of its date of issuance in the aggregate principal amount of \$4,500,000, in the form and upon the terms set forth in this Resolution.

5.02. **Term and Interest Rate.** The Note shall initially be issued as one document, maturing twenty years from its date of issuance. The interest rate will be a fixed rate of 3.95% per annum with interest computed on a 365/365 simple interest basis. The payments will be made monthly, in arrears, and there will be 239 payments in the amount of \$21,363.27 and one final irregular payment of the remaining balance (currently estimated at \$2,186,097.28), which is the principal amount

payable over a fully amortized 30 year term and a balloon payment at the end of the 20 year term of the Note.

5.03. Prepayment. The Note may be subject to prepayment penalties at the times and prices and upon the conditions set forth in the Loan Agreement.

5.04. Sale and Form of Note. The proposal of the Purchaser to purchase the Note at a price of \$4,500,000 on the date of delivery (less an administrative fee), is hereby found and determined to be reasonable and is hereby accepted. The Chairman of the Board of County Commissioners and the County Clerk and Recorder are authorized and directed to prepare the Note in the form attached hereto as Exhibit A and execute the Note as prescribed herein and to deliver the Note to the Purchaser, together with a copy of this Resolution, the other documents described herein, and such other certificates, documents and instruments as may be appropriate to effect the transactions herein contemplated.

5.05. Designation as "Qualified Tax-Exempt Obligations". Pursuant to Section 265(b)(3)(B)(ii) of the Internal Revenue Code of 1986 (the "Code"), the County hereby designates the Note as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code. The County has thus far designated no Notes issued by it, or its subordinate entities in 2014 as "Qualified Tax-Exempt Obligations" under Section 265(b)(3) of the Code. The County hereby represents that it does not anticipate that in 2014 the County and all "subordinate entities" of the County will issue obligations bearing interest exempt from federal income taxation under Section 103 of the Code (including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) in an amount greater than \$10,000,000.

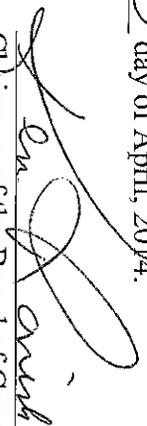
Section 6. Modifications; Absence of Officers. The approval hereby given to the various documents referred to above includes an approval of such modifications thereto, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Chairman of the Board of County Commissioners. The execution of any instrument by the appropriate officer or officers of the County herein authorized shall be conclusive evidence of the approval of such documents in accordance with the terms hereof. In the absence or disability of the Chairman of the Board of County Commissioners, any of the documents authorized by this resolution to be executed, may be executed by the acting Chairman of the Board of County Commissioners and in the absence or disability of the County Clerk and Recorder by a deputy of such officer.

Section 7. Authentication of Proceedings. The Chairman of the Board of County Commissioners and the County Clerk and Recorder are authorized and directed to furnish to the Purchaser and Bond Counsel certified copies of all proceedings and records of the County relating to the Note, and such other affidavits and certificates as may be required to show the facts relating to the legality and marketability of the Note as such facts appear from the books and records in the officer's custody and control or as otherwise known to them; and all such certified copies, certificates and affidavits, including any heretofore furnished, shall constitute representations of the County as to the truth of all statements of fact contained therein.

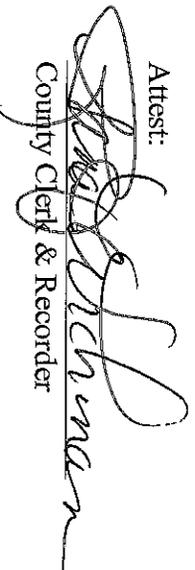
Section 8. Registration and Transfer. The County hereby appoints the County Treasurer to act as registrar. The County reserves the right to appoint a bank, trust company or financial institution as successor Note registrar, as authorized by the Model Public Obligations Registration Act of Montana, Montana Code Annotated, Title 17, Chapter 5, Part 11, but the Corporation will pay the reasonable and customary charges of the registrar for the services performed. This Section shall establish a system of registration for the Note as defined in the above-referenced Registration Act. The Note shall be registered and shall be transferable upon the books of the County at the office of the County Treasurer in Lewistown, Montana, by the registered owner thereof in person or by its attorney duly authorized in writing, upon surrender thereof together with a written instrument of transfer. The County Treasurer will note the date of registration and the name and address of the new registered owner upon the books of the County and in the registration blanks appearing on the Note. Alternatively, the County will at the request and expense of the registered owner issue a new Note in a principal amount equal to the principal balance of the Note to be replaced and of like tenor except as to number, principal amount and the number and amount of the installments payable thereunder, and registered in the name of the registered owner or such transferee as may be designated by the registered owner. The County may deem and treat the person in whose name the Note is last registered upon the books of the County with such registration also noted on the Note, as the absolute owner thereof, whether or not overdue, for the purpose of receiving payment of or on account of the principal balance, prepayment price or interest and for all other purposes, and all such payments so made to the registered owner or upon its order shall be valid and effectual to satisfy and discharge the liability upon the Note to the extent of the sum or sums so paid, and the County shall not be affected by any notice to the contrary.

Section 9. Effective Date. This resolution shall become effective immediately upon its passage and approval.

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF
FERGUS COUNTY, MONTANA, this 10 day of April, 2014.



Chairman of the Board of County Commissioners

Attest:


County Clerk & Recorder