

MONDAY, SEPTEMBER 6, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, and Clerk Robinson were present.

COUNTY OFFICES CLOSED – LABOR DAY

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 7, 2004.

TUESDAY, SEPTEMBER 7, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, and Clerk Robinson were present.

Chairman Gipe asked for public comment within the Commission’s jurisdiction, no one rising to speak, Chairman Gipe closed the public comment period.

MONTHLY MEETING W/NORM CALVERT, COMPUTER SERVICES

Present at the September 7, 2004 9:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Deputy County Attorney Jonathan Smith, Computer Services Director Norm Calvert, and Clerk Eisenzimer.

General discussion was held relative to determination of classifications on properties within the County Fire Service area that are not being completed; fire district boundaries being completed by GIS.

PUBLIC HEARING: CREATION OF RSID #138

Present at the September 7, 2004 9:30 A.M. duly advertised public hearing were Chairman Gipe, Commissioners Watne and Hall, Walter Kuhn, Jim Martin, Ken Larson, Tom Cowan and Clerk Eisenzimer.

Chairman Gipe opened the public hearing to anyone wishing to speak in favor of the creation of RSID #138.

Walter Kuhn – we’ve been working on this process for about a year to form an RSID. As we did have the petition signed by a major majority of the homeowners in the subdivision, Big Mountain View Sub 32 in favor of this. It’s been a long process and of course those who are benefiting from the process are the ones that are going to pay for it and we encourage the commissioners to approve it.

No one else rising to speak, Chairman Gipe asked for anyone wishing to speak in opposition to the creation of RSID #138.

No one rising to speak, Chairman Gipe closed the public hearing.

Commissioner Watne made a motion to adopt Resolution No.1710C Commissioner Hall seconded the motion. Aye - Watne, Hall and Gipe. Motion carried unanimously.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Flathead County, Montana (the “County”), hereby certify that the attached resolution is a true copy of Resolution No. 1710C entitled: “RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY’S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE” (the “Resolution”), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a meeting on September 7, 2004, and that the meeting was duly held by the Board of County Commissioners 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 Commissioners voted in favor thereof: Chairman Gipe, Commissioner Watne and Commissioner Hall voted against the same: no one abstained from voting thereon or were absent.

WITNESS my hand officially this 7th day of September, 2004.

Paula Robinson
Flathead County Clerk and Recorder

By: /s/ Monica R. Eisenzimer
Deputy

RESOLUTION NO. 1710 C

RESOLUTION RELATING TO RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138; CREATING THE DISTRICT FOR THE PURPOSE OF UNDERTAKING CERTAIN LOCAL IMPROVEMENTS AND FINANCING THE COSTS THEREOF AND INCIDENTAL THERETO THROUGH THE ISSUANCE OF RURAL SPECIAL IMPROVEMENT DISTRICT BONDS SECURED BY THE COUNTY’S RURAL SPECIAL IMPROVEMENT DISTRICT REVOLVING FUND AND ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

BE IT RESOLVED by the Board of County Commissioners of Flathead County, Montana (the “County”),

as follows:

Section 1. Passage of Resolution of Intention. This Board, on April 28, 2004, adopted Resolution No. 1710 (the "Resolution of Intention"), pursuant to which this Board declared its intention to create a rural special improvement district, designated as Rural Special Improvement District No. 138 of the County, under Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended, for the purpose of financing costs of certain local improvements described generally therein (the "Improvements") and paying costs incidental thereto, including costs associated with the sale and the security of rural special improvement district bonds drawn on the District (the "Bonds"), the creation and administration of the District and the funding of a deposit to the County's Rural Special Improvement District Revolving Fund (the "Revolving Fund").

Section 2. Notice and Public Hearing. Notice of passage of the Resolution of Intention was duly published and posted in all respects in accordance with law, and on June 2, 2004, this Board conducted a public hearing on the creation or extension of the District and the making of the Improvements. Subsequent to the public hearing, it was determined that Notice was not mailed to the persons, firms or corporations having real property within the proposed district as required by law. Notice of the passage of the Resolution of Intention was again published and posted, and also mailed in all respects in accordance with law, and on September 7, 2004, this Board conducted another public hearing on the creation or extension of the District and the making of the Improvements. The meeting of this Board at which this resolution was adopted is the first regular meeting of the Board following the expiration of the period ended 30 days after the first date of publication of the revised notice of passage of the Resolution of Intention (the "Protest Period").

Section 3. Protests. Within the Protest Period, no protests were filed with the County Clerk and not withdrawn by the owners of property in the District subject to assessment for 0% of the total costs of the Improvements.

Section 4. Creation of the District; Insufficiency of Protests. The District is hereby created on the terms and conditions set forth in, and otherwise in accordance with, the Resolution of Intention. The protests against the creation or extension of the District or the making of the Improvements filed during the Protest Period, if any, are hereby found to be insufficient. The findings and determinations made in the Resolution of Intention are hereby ratified and confirmed.

Section 5. Reimbursement Expenditures.

5.01. Regulations. The United States Department of Treasury has promulgated final regulations governing the use of proceeds of tax-exempt bonds, all or a portion of which are to be used to reimburse the County for project expenditures paid by the County prior to the date of issuance of such bonds. Those regulations (Treasury Regulations, Section 1.150-2) (the "Regulations") require that the County adopt a statement of official intent to reimburse an original expenditure not later than 60 days after payment of the original expenditure. The Regulations also generally require that the bonds be issued and the reimbursement allocation made from the proceeds of the bonds within 18 months (or three years, if the reimbursement bond issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) after the later of (i) the date the expenditure is paid or (ii) the date the project is placed in service or abandoned, but (unless the issue qualifies for the "small issuer" exception from the arbitrage rebate requirement) 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.

5.02. Prior Expenditures. 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 minimus" amount (as defined in Section 1.150-2(f)(1) of the Regulations), no expenditures for the Improvements have been paid by the County before the date 60 days before the date of adoption of this resolution.

5.03. Declaration of Intent. The County reasonably expects to reimburse the expenditures made for costs of the Improvements out of the proceeds of Bonds in an estimated maximum aggregate principal amount of \$523,000 after the date of payment of all or a portion of the costs of the Improvements. All reimbursed expenditures shall be capital expenditures, a castoff issuance of the Bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

5.04. Budgetary Matters. As of the date hereof, there are no County 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 Improvements, other than pursuant to the issuance of the Bonds. The statement of intent contained in this resolution, therefore, is determined to be consistent with the County's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof.

5.05. Reimbursement Allocations. The County's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the County to make prior payment of the costs of the Improvements. Each allocation shall be evidenced by an entry on the official books and records of the County maintained for the Bonds or the Improvements and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the Board of County Commissioners of Flathead County, Montana, this 7th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

By /s/ Gary D. Hall
Gary D. Hall, Member

By /s/ Monica R. Eisenzimer
Deputy

SALE OF BONDS/RSID #138

Present at the September 7, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Deputy County Attorney Jonathan Smith, Walter Kuhn, Jim Martin, Ken Larson, Tom Cowan, and Clerk Eisenzimer.

Chairman Gipe opened and read aloud the bids for the bonds:

D.A. Davidson
Flathead Bank
Glacier Bank

Chairman Gipe requested that the meeting be continued for one hour to allow time to determine the winning bid.

Commissioner Hall made a **motion** to approve the selling of bonds for RSID #138 to D.A.Davidson by Resolution 1710D. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Flathead County, Montana (the "County"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$523,000 RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138 BONDS; AWARDED THE SALE THEREOF" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of Commissioners of the County at a regular meeting on September 7, 2004, and that the meeting was duly held by the Board of Commissioners 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 Commissioners voted in favor thereof: Chairman Gipe, Commissioner Watne and Commissioner Hall voted against the same: no one abstained from voting thereon or were absent.

WITNESS my hand and seal officially this 7th day of September, 2004.

Paula Robinson
Flathead County Clerk and Recorder

By /s/ Monica R. Eisenzimer
Deputy

RESOLUTION NO. 1710D

RESOLUTION RELATING TO \$523,000 RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138 BONDS;
AWARDING THE SALE THEREOF

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

1. This Board on August 2, 2004 adopted Resolution No. 1710B providing for the public sale of \$523,000 Rural Special Improvement District No. 138 Bonds (the "Bonds") to finance the costs of certain local improvements to be undertaken in or for the benefit of Rural Special Improvement District No. 138. Notice of the sale has been duly published in accordance with Montana Code Annotated, Sections 7-12-4204, 7-7-4252 and 17-5-106. Pursuant to the notice of sale, sealed bids for the purchase of the Bonds were received at or before the time specified for receipt of bids. The bids have been opened and publicly read and considered, and the purchase price, interest rates and net interest cost under the terms of each bid have been determined.

2. The bid of D.A. Davidson of Great Falls, Montana (the "Purchaser"), attached as Exhibit A, to purchase the Bonds of the County, is hereby determined to comply with the notice of sale, and to be the lowest, most reasonable bid for the purchase of the Bonds. The bid of the Purchaser is hereby accepted by the Board and the sale of the Bonds is hereby awarded to the Purchaser. The bid security of the Purchaser shall be retained pending delivery of the payment for the Bonds and the bid security of all other bidders shall be promptly returned.

3. The Chair and/or the Acting Chair are hereby authorized and directed to execute on behalf of the County a contract for the sale of the Bonds with the Purchaser.

4. This Board shall prescribe the form and security for the Bonds in a subsequent resolution.

Passed by the Board of County Commissioners of Flathead County, Montana, this 7th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

By /s/ Gary D. Hall
Gary D. Hall, Member

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

CONSIDERATION OF ADOPTION OF RESOLUTION: BUDGET FY 04-05

Present at the September 7, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, County Treasurer Adele Krantz, Clerk and Recorder Paula Robinson, Colleen Baars, Susan Nicosia, Planning & Zoning Director Forrest Sanderson, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to adopt Resolution 1744. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 1744

**A RESOLUTION APPROVING AND ADOPTING THE FLATHEAD
COUNTY BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2005**

WHEREAS, Section 7-6-4030(2) M.C.A. requires that the Board of County Commissioners, by resolution, approve and adopt the budget for each fiscal year;

WHEREAS, the Board of Commissioners, in accordance with Section 7-6-4030(3)(a), MCA, may establish the legal spending limit at a level of detail which will allow more flexibility and has determined that that level of budget control should be at the Fund/Department level;

WHEREAS, the Board of Commissioners directed a hiring freeze during the budget process and has determined that any unused budget authority in Personnel Services will provide a much needed carryover to the next fiscal year; and

WHEREAS, the proper public hearings have been held in regard to the setting of such budget for the fiscal year ending June 30, 2005,

NOW, THEREFORE, BE IT RESOLVED, that the Board of County Commissioners for Flathead County does hereby approve and adopt the final budget for Flathead County for the fiscal year ending June 30, 2005, as set out in the budget document attached and incorporated herein as a part of this resolution.

BE IT FURTHER RESOLVED, that the level of budget control shall be at the Fund/Department level, that any unused budget appropriations for the Personal Services object codes (100's), shall not be used to increase spending in other budget areas, such as Supplies, Purchased Services or Capital Outlay, without specific Board approval, and that budget authority within the remaining object codes, 200 - 900, may be transferred at the fund/department level without line item transfer approval by the Board of Commissioners, provided that total expenditures may not exceed the total fund/department budget.

BE IT FURTHER RESOLVED, that the Board of county Commissioners for Flathead County does hereby approve and adopt the levies required to fund the final budget for Flathead County for the fiscal year ending June 30, 2005, as set out in the budget document attached and incorporated herein as part of this resolution.

BE IF FURTHER RESOLVED, that the Board of County Commissioners for Flathead County does hereby order the Clerk and Recorder to enter the budget document and tax levy schedule in the official minutes of the Board of County Commissioners and to send copies of the budget as approved and adopted to all necessary offices of the county and the State of Montana.

APPROVED AND ADOPTED this 7th day of September, 2004.

BOARD OF COMMISSIONERS
Flathead County, Montana

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:

Paula Robinson, Clerk

By: /s/ Gary D. Hall
Gary D. Hall, Member

By: /s/ Monica R. Eisenzimer
Monica R. Eisenzimer, Deputy

By: /s/Robert W. Watne
Robert W. Watne, Member

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: ROAD NAMING/ASPEN RIDGE ROAD & SARASVATI LANE

Present at the September 7, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **ASPEN RIDGE ROAD**.

Road generally running northerly and westerly off West Reserve Drive and located in the SW ¼ of the SE ¼ of Section 28, Township 29 North, Range 22 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **21st day of September, 2004, at 9:30 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **ASPEN RIDGE ROAD**.

This notice shall be mailed to each landowner who has access off of the proposed **Aspen Ridge Road**, who has an address assignment on the proposed **Aspen Ridge Road** or who owns property along the proposed **Aspen Ridge Road**.

Dated this 7th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By: /s/ Monica R. Eisenzimer
Deputy

Publish on September 10th & 17th, 2004.

Commissioner Watne made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice that it will hold a public hearing to consider a proposal to name a road as **SARASVATI LANE**.

Road generally running southerly off Birch Grove Road and located in the Northwest ¼ of the Southeast ¼ in Section 8, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana.

The public hearing will be held on the **21st day of September, 2004, at 9:30 A.M.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed naming of **SARASVATI LANE**.

This notice shall be mailed to each landowner who has access off of the proposed **Sarasvati Lane**, who has an address assignment on the proposed **Sarasvati Lane** or who owns property along the proposed **Sarasvati Lane**.

Dated this 7th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By: /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By: /s/ Monica R. Eisenzimer
Deputy

Publish on September 10th & 17th, 2004.

CONSIDERATION OF ADOPTION OF FINAL RESOLUTION: EASTHAVEN BAPTIST CHURCH ZONE CHANGE/BIGFORK ZONING DISTRICT

Present at the September 7, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to adopt Resolution 956BA. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

RESOLUTION NO. 956 BA

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, after the publication of legal notice, on the 29th day of June, 2004, concerning a proposal to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to B-3 (Community Business);

WHEREAS, the Board of Commissioners did hear public comment on the proposed zoning change at said hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposed change in the Bigfork Area Zoning District;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205, M.C.A., adopted a resolution of intention (Resolution No. 956 AZ, dated June 29, 2004) to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) to B-3 (Community Business) and;

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on July 2 and July 9, 2004, and the Board of Commissioners did not receive written protests to the change from forty per cent (40%) of the freeholders.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(6), M.C.A., hereby amends the Bigfork Area Zoning District to change the zoning designation for the area described on Exhibit "A" hereto, from SAG-5 (Suburban Agricultural) to B-3 (Community Business), as those terms are used and defined in the Flathead County Zoning Regulations, located in Permanent File No. 93270 13500, in the Flathead County Clerk and Recorder's Office.

DATED this 7th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By/s/Howard W. Gipe
Howard W. Gipe, Chairman

By/s/ Gary D. Hall
Gary D. Hall, Member

By/s/Robert W. Watne
Robert W. Watne, Member

ATTEST:
Paula Robinson, Clerk

By/s/ Monica R. Eisenzimer
Deputy

**EXHIBIT A
EASTHAVEN BAPTIST CHURCH**

The property is located at 2855 MT Highway 82, Bigfork, MT, and contains approximately 5.31 acres. The property is further described as Lot 1A of Amended Lot 4, Flathead Swan Junction, in Section 14, Township 27 N, Range 20 W.

DOCUMENT FOR SIGNATURE: QUITCLAIM DEED/CITY OF WHITEFISH

Present at the September 7, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Deputy County Attorney Peter Steele, and Clerk Eisenzimer.

Steele presented the Board with a Quit claim deed granting the westerly 30 feet of Government Lots 1, 2, 3, and 4 lying northerly of East Edgewood drive in Section 30, Township 31 North, Range 21 West, P.M.M., Flathead County, Montana.

Commissioner Watne made a **motion** to approve the Quitclaim deed giving interest in said road to the City of Whitefish, Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF LAKESHORE PERMIT: SMALLEY

Present at the September 7, 2004 10:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planner George Smith, Assistant Webb, and Clerk Eisenzimer.

Smith reviewed Lake and Lakeshore Construction Permit filed by Jerry Smalley on Ashley Lake to repair existing non-conforming boathouse. Structure will be jacked up, the deteriorated foundation removed, and a new foundation constructed. Existing foundation supporting the thirteen (13) feet wide by twenty-three (23) feet long wood boathouse is to be extended in length by three (3) feet landward. After completion of foundation restoration, the wood structure will be trued up, deteriorated wood replaced, and extended in length to match the foundation. Siding will be a natural finish to match the adjacent cabin. A small tractor will be utilized to break up and remove the old foundation; during low water, equipment will remain clear of the water, and all demolition materials will be removed from the Lakeshore Protection Zone. A permit is required due to the extent of construction, motorized equipment, and amount of materials being removed and introduced into the lakeshore Protection Zone. A variance is required to approve the extension in length of a non-conforming existing structure. Staff recommends approval. General discussion was held.

Commissioner Hall made a **motion** to approve Lakeshore Permit #FLV-04-23 allowing for the three foot extension with 18 conditions and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye**- Watne, Gipe and Hall. Motion carried unanimously.

TAX REFUND REQUEST: ELEVEN MAIN BUILDING PARTNERSHIP

Present at the September 7, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Chairman Gipe presented two tax refund request one for \$4601.32 and \$1413.48 due to the building being over appraised.

Commissioner Watne made a **motion** to approve the requested refunds. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

PRELIMINARY PLAT: HARVEST VIEW SUBDIVISION

Present at the September 7, 2004 10:30 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planner Johna Morrison, Bill Koenig, G.W. Ingham, Harry and Nancy Brown, Jim Welsh, Ardis and Jeff Larsen of Larsen Engineering and Surveying, and Clerk Eisenzimer.

Morrison reviewed the preliminary plat filed by Bill Koenig for Preliminary Plat approval of Harvest View Subdivision, a 45 lot single-family residential 'cluster' subdivision on approximately 156.52 acres with lots ranging from .54 acre to 1.68 acres in size.. The property is proposed to have individual sewer systems and multiple-user wells. Addition of Condition 18 being that the developer shall contact the West Valley Fire Chief and fire suppression shall be placed per the Chief's requirements. The developer shall receive a letter from the Fire Chief stating his requirements have been met. The property is located on Church Drive, Kalispell, MT.

Discussion continued with Jeff Larsen addressing issues with soils and septic systems.

Commissioner Watne made a **motion** to adopt Staff Report #FPP-04-26 as Findings of Fact. Commissioner Hall **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

Commissioner Watne made a **motion** to strike condition 1 allowing for a variance to Section 3.9, table 3, minor street standards due to the length of the road, therefore requiring the developer to build secondary emergency access road. Commissioner Hall **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

Commissioner Hall made a **motion** to add condition 18. Commissioner Watne **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

Commissioner Hall made a **motion** to approve the Preliminary Plat for Harvest View Subdivision as amended subject to 17 conditions. Commissioner Hall **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

CONSIDERATION OF SIA EXTENSION/HARMONY COURT

Present at the September 7, 2004 11:00 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Assistant Webb, and Clerk Eisenzimer.

Chairman Gipe presented a request to extend the Subdivision Improvement Agreement for Harmony Court from August 31 to September 30, 2004.

Commissioner Hall made a **motion** to approve the requested extension. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF RELEASE OF COLLATERAL: ASHLEY HILLS

Present at the September 7, 2004 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Chairman Gipe presented a request for release of collateral for Ashley Hills as all improvements have been completed.

Commissioner Hall made a **motion** to approve the release of collateral. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: CONSULTANT AGREEMENT/SOMERS TO LAKESIDE BIKE PATH

Present at the September 7, 2004 11:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Planner Peggy Goodrich, and Clerk Eisenzimer.

Goodrich reviewed a letter from Lakeside Community Development addressing the proposed Somers to Lakeside Bike Path expressing that \$42,000 is available for match money only if the bike path is extended to Lakeside. Project is scheduled to end at the Somers Fish Hatchery.

Commissioner Hall made a **motion** to approve the agreement for the Somers to Lakeside Bike path and authorize Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF POSITION OPENING: OAI/CLERK OF COURT

Present at the September 7, 2004 11:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Chairman Gipe reviewed a memo requesting to replace an OAI.

Commissioner Watne made a **motion** to approve replacing OAI position. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF EXTENSION REQUEST: SIA/EAGLE RIDGE ESTATES

Present at the September 7, 2004 11:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, and Clerk Eisenzimer.

Chairman Gipe presented a request for extension of Subdivision Improvement agreement from September 30, 2004 until October 30, 2004.

Commissioner Hall made a **motion** to approve the requested extension. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF POSITION OPENING: LIBRARY ASST.

Present at the September 7, 2004 11:15 A.M. Meeting were Chairman Gipe, Commissioners Hall and Watne, Assistant Webb, and Clerk Eisenzimer.

Chairman Gipe presented a request from the library to reopen a position to replace library assistant.

Commissioner Hall made a **motion** to open position to replace library assistant. Commissioner Watne **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 8, 2004.

WEDNESDAY, SEPTEMBER 8, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, and Clerk Robinson were present.

7:00 a.m. Chairman Gipe and Commissioner Hall attended City of Kalispell and Evergreen Water & Sewer meeting at the Earl Bennett Building.

11:00 a.m. County Attorney meeting at County Attorney's office

1:00 p.m. Commissioner Hall viewed the Fuel Reduction project at Hungry Horse Ranger Station

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 9, 2004.

THURSDAY, SEPTEMBER 9, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, and Clerk Robinson were present.

MONTHLY MEETING W/FORREST SANDERSON, PLANNING AND ZONING OFFICE

Present at the September 9, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Planning and Zoning Director Forrest Sanderson, and Clerk Eisenzimer.

General discussion was held relative to annual recertification for floodplain management; continued correspondence from regarding minor subdivisions, recommendation was to place letter in file with no other action taken; vacancies on Land Use Advisory Boards; revenues regarding projection versus expenses; Planning Board meeting dates and agenda items; reminder of a meeting between DNRC and Whitefish regarding planning and subunits; approval of interlocal agreement in Whitefish regarding planning jurisdiction; discussion of amendment to Roads Section of Subdivision Regulations.

Commissioner Watne made a **motion** to approve the Certification of floodplain management and authorize Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

DOCUMENT FOR SIGNATURE: COMM. RATING SYSTEM ANNUAL RECERTIFICATION/FLOODPLAIN

Present at the September 9, 2004 9:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Commissioner Watne made a **motion** to approve the Certification of floodplain management and authorize Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

PRELIMINARY PLAT: JEWEL BASIN RANCH

Present at the September 9, 2004 9:30 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Planner BJ Grieve, Adam Pray, and Clerk Eisenzimer.

Grieve reviewed the preliminary plat filed by Cole Family Trust and Goacher & Associates for approval of Jewel Basin Ranch, a minor subdivision that will create five single-family residential lots. The subdivision is located just outside the LaBrant Lindsey Lane Zoning District, approximately two road miles north of Echo Lake and fourteen miles from Kalispell. Conditions contain a variance calling for a midpoint cul-de-sac considering the extraordinary length of the subdivision road.

Commissioner Hall made a **motion** to adopt Staff Report #FSR-04-31 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye** – Watne, Gipe and Hall. Motion carried unanimously.

Commissioner Hall made a **motion** to approve the variance concerning the cul-de-sac. Commissioner Watne **seconded** the motion. **Aye** – Watne, Hall and Gipe. Motion carried unanimously.

Commissioner Watne made a **motion** to approve Preliminary Plat for Jewel Basin Ranch subject to 12 conditions. Commissioner Hall **seconded** the motion. **Aye**- Watne, Hall and Gipe. Motion carried unanimously.

AWARD CONTRACT: RSID #138

Present at the September 9, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Deputy County Attorney Jonathan Smith, Kevin Malloy from Carver Engineering, and Clerk Eisenzimer.

Chairman Gipe reviewed a memo awarding the contract for construction of roads in Big Mountain Subdivision #2 to Schellinger Construction.

Commissioner Hall made a **motion** to approve the Bid of Schellinger Construction for Big Mountain Subdivision #2. Commissioner Watne **seconded** the motion. **Aye**- Watne, Hall and Gipe. Motion carried unanimously.

CONSIDERATION OF ADOPTION OF RESOLUTION: BOND/RSID #138

Present at the September 9, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Deputy County Attorney Jonathan Smith, Clerk & Recorder Paula Robinson, Kevin Malloy from Carver Engineering, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to adopt Resolution No. 1710E. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Flathead County, Montana (the "County"), hereby certify that the attached resolution is a true copy of a Resolution entitled: "RESOLUTION RELATING TO \$523,000 RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138 BONDS; FIXING THE FORM AND DETAILS AND PROVIDING FOR THE EXECUTION AND DELIVERY THEREOF AND SECURITY THEREFOR" (the "Resolution"), on file in the original records of the County in my legal custody; that the Resolution was duly adopted by the Board of County Commissioners of the County at a regular meeting on September 9, 2004, and that the meeting was duly held by the Board of County Commissioners 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 Commissioners voted in favor thereof: Chairman Gipe, Commissioners Watne and Hall, no one voted against the same, abstained from voting thereon, or were absent.

WITNESS my hand and seal officially this 9th day of September, 2004.

(SEAL) Paula Robinson
Flathead County Clerk and Recorder

By/s/ Monica R. Eisenzimer

Deputy

RESOLUTION NO. 1710E

RESOLUTION RELATING TO \$523,000 RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138 BONDS; FIXING THE FORM AND DETAILS AND PROVIDING FOR THE EXECUTION AND DELIVERY THEREOF AND SECURITY THEREFOR

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

Section 1. Recitals. It is hereby found, determined and declared as follows:

1.01. Resolution of Intention. By Resolution No. 1710, adopted April 28, 2004 (the "Resolution of Intention"), this Board declared its intention to create Rural Special Improvement District No. 138 (the "District"), for the purpose of making special improvements for the special benefit of the District. The Resolution of Intention designated the number of the District, described the boundaries thereof, stated whether the District was an extended district and stated the general character of the improvements to be made (the "Improvements") and an approximate estimate of the costs thereof, in accordance with the provisions of Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended (the "Act"). By the Resolution of Intention this Board also declared its intention to cause the cost and expense of making the improvements specially benefiting the District to be assessed against the properties included within the boundaries thereof in accordance with one or more methods of assessment authorized in Montana Code Annotated, Section 7-12-2151 and as set forth in the Resolution of Intention. In the Resolution of Intention, this Board further found that it is in the public interest, and in the best interest of the County and the District, to secure payment of principal of and interest on the Bonds by the Rural Special Improvement District Revolving Fund of the County, on the basis of the factors required to be considered under Section 7-12-2185 of the Act. Those findings are hereby ratified and confirmed. In Resolution No. 1710C, adopted September 7, 2004, the Board of County Commissioners also declared its intention to reimburse the County for costs paid before issuance of the Bonds, as required by Section 1.150-2 of the Income Tax Regulations promulgated under the Internal Revenue Code.

1.02. Notices. Notice of the passage of the Resolution of Intention was given by two publications, with at least six days between publications, the first no more than 21 days prior to the hearing and the last no less than three days prior to the hearing, in a qualified newspaper of general circulation in the County or, if no such newspaper is published, in a qualified newspaper published in an adjacent county, as required by Montana Code Annotated, Sections 7-12-2105(1) and 7-1-2121. Notice of the passage of the Resolution of Intention was also mailed to all persons, firms or corporations or the agents thereof having real property within the District listed in their names upon the last completed assessment roll for state, county and school district taxes, at their last known addresses. The notice described the general character of the Improvements, stated the estimated cost of the Improvements and the method or methods of assessment of such costs against properties in the District, specified the time when and the place where the Board would hear and pass upon all protests made against the making of the Improvements or the creation or extension of the District, referred to the Resolution of Intention as being in file in the office of the County Clerk and Recorder for a description of the boundaries of the District, all in accordance with the provisions of the Resolution of Intention, and included a statement that, subject to the limitations of Section 7-12-2182 of the Act, the general fund of the County may be used to provide loans to the revolving fund or a general tax levy may be imposed on all taxable property in the County to meet the financial requirements of the revolving fund.

1.03. Creation of District. At the time and place specified in the notice hereinabove described, this Board met to hear, consider and pass upon all protests made against the making of the Improvements and the creation of the District, and, after consideration thereof, it was determined and declared that insufficient protests against the creation or extension of the District or the proposed work had been filed in the time and manner provided by law by the owners of the property to be assessed for the Improvements in the District, and this Board did therefore by Resolution No. 1710C, adopted September 7, 2004, create the District and order the proposed Improvements in accordance with the Resolution of Intention. In the resolution, the Board of County Commissioners also confirmed the findings it made with respect to the pledge of the Revolving Fund in the Resolution of Intention.

1.04. Construction Contracts. Plans, specifications, maps, profiles and surveys for construction of the Improvements were prepared by the engineers acting for the County, and were thereupon examined and approved by this Board. An advertisement for bids for construction of the Improvements was published in the official newspaper of the County in accordance with the provisions of Montana Code Annotated, Section 7-12-2131, after which the bids theretofore received were opened and examined. After referring the bids to the engineers for the County it was determined that the lowest regular proposal for the furnishing of all work and materials required for constructing the Improvements in accordance with the approved plans and specifications was the following:

<u>Work</u>	<u>Bidder</u>	<u>Contract Price</u>
Grading, gravel and paving improvements, replacement of water mains and underground utilities	Schellinger Construction	\$371,440.77

A contract for the construction of the Improvements was therefore awarded to said bidder, subject to the right of owners of property liable to be assessed for the costs thereof to elect to take the work and enter into written contracts therefor in the manner provided by Montana Code Annotated, Section 7-12-4147, which election the property owners failed to make, whereupon the County and the successful bidder entered into a written contract for construction of the Improvements upon the bidder having executed and filed bonds satisfactory to this Board and in the form and manner provided by Montana Code Annotated, Title 18, Chapter 2, Part 2, as amended.

1.05. Costs. It is currently estimated that the costs and expenses to be assessed against properties benefited by the Improvements, including costs of preparation of plans, specifications, maps, profiles, engineering superintendence and inspection, preparation of assessment rolls, expenses of making the assessments, the cost of work and materials under the construction contract and all other costs and expenses, including the deposit of proceeds in the Revolving Fund, are \$523,000. Such amount will be levied and assessed upon the assessable real property within the District on the bases described in the Resolution of Intention. This Board has jurisdiction and is required by law to levy and assess such amount, to collect such special assessments and credit the same to the rural special improvement district fund created for the District, which fund is to be maintained on the official books and records of the County separate from all other County funds, for the payment of principal and interest when due on the bonds herein authorized.

1.06. Sale and Issuance of Bonds. For the purpose of financing the costs and expenses of making the Improvements, which are to be assessed against the property within the District as provided in the Resolution of

Intention, this Board by Resolution No. 1710B, adopted August 2, 2004, called for the public sale of bonds in the total aggregate amount of \$523,000 (the "Bonds"). Advertisements for bids for the purchase of the Bonds were published in accordance with the provisions of Montana Code Annotated, Sections 7-12-2172, 7-7-4252 and 17-5-106. The Board hereby authorizes the County to enter into a contract with D.A. Davidson & Co., of Great Falls, Montana (the "Purchaser"), pursuant to which the Purchaser agreed to purchase from the County the Bonds at a purchase price of \$513,847.50 plus interest accrued thereon from the date of original issue of the Bonds, at the rates of interest set forth in Section 2.01 hereof and upon the further terms set forth in this resolution resulting in a true interest cost of 4.82265% per annum and a total dollar interest cost of \$324,486.60.

1.07. Recitals. All acts, conditions and things required by the Constitution and laws of the State of Montana, including Montana Code Annotated, Title 7, Chapter 12, Part 21, as amended, in order to make the Bonds valid and binding special obligations in accordance with their terms and in accordance with the terms of this resolution have been done, do exist, have happened and have been performed in regular and due form, time and manner as so required.

Section 2. The Bonds.

2.01. Principal Amount, Maturities, Denominations, Date, Interest Rates. For the purpose of paying the costs and expenses incurred in construction of the Improvements, and in anticipation of the collection of special assessments to be levied therefor, and in accordance with the proposal described in Section 1.06, the County shall forthwith issue and deliver to the Purchaser the Bonds payable solely from the Rural Special Improvement District No. 138 Fund (the "District Fund") and denominated "Rural Special Improvement District No. 138 Bonds." The Bonds shall be dated, as originally issued, and be registered as of September 15, 2004, shall each be in the denomination of \$5,000 or any integral multiple thereof of single maturities, shall mature on July 1 in the years and principal amounts set forth below, and Bonds maturing in such years and principal amounts shall bear interest from the date of original registration until paid or duly called for redemption at the rates per annum set forth opposite such years and amounts, respectively:

Year	Amount	Rate	Year	Amount	Rate
2006	\$ 8,000	2.50%	2016	\$25,000	4.50%
2007	15,000	2.75%	2017	30,000	4.60%
2008	20,000	3.00%	2018	30,000	4.65%
2009	20,000	3.40%	2019	30,000	4.75%
2010	20,000	3.60%	2020	30,000	4.85%
2011	20,000	3.85%	2021	30,000	5.00%
2012	25,000	4.00%	2022	35,000	5.00%
2013	25,000	4.15%	2023	35,000	5.00%
2014	25,000	4.25%	2024	35,000	5.00%
2015	25,000	4.40%	2025	40,000	5.00%

2.02. Interest Payment Dates. Interest on the Bonds shall be payable on each January 1 and July 1, commencing January 1, 2006, to the owners of record thereof as such appear on the bond registrar at the close of business on the fifteenth day of the immediately preceding month, whether or not such day is a business day. Upon the original delivery of the Bonds to the Purchaser and upon each subsequent transfer or exchange of a Bond pursuant to Section 2.04, the Registrar shall date each Bond as of the date of its authentication.

2.03. Method of Payment. The Bonds shall be issued only in fully registered form. The interest on and, upon surrender thereof at the operations center of the Registrar (as hereinafter defined), the principal of each Bond, shall be payable by check or draft drawn on the Registrar.

2.04. Registration. The County hereby appoints the County Clerk and Recorder to act as registrar, transfer agent and paying agent (the "Registrar"). The County reserves the right to appoint a successor bond registrar, transfer agent or paying agent, as authorized by the Model Public Obligations Registration Act of Montana, Montana Code Annotated, Title 17, Chapter 5, Part 11, as amended (the "Registration Act"), but the County agrees to pay the reasonable and customary charges of the Registrar for the services performed. This Section 2.04 shall establish a system of registration for the Bonds as defined in the Registration Act. The effect of registration and the rights and duties of the County and the Registrar with respect thereto shall be as follows:

(a) Bond Register. The Registrar shall keep at its operations center a bond register in which the Registrar shall provide for the registration of ownership of the Bonds and the registration of transfers and exchanges of the Bonds entitled to be registered, transferred or exchanged.

(b) Transfer. Upon surrender to the Registrar for transfer of any Bond duly endorsed by the registered owner thereof or accompanied by a written instrument of transfer, in form satisfactory to the Registrar, duly executed by the registered owner thereof or by an attorney duly authorized by the registered owner in writing, the Registrar shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Bonds of a like aggregate principal amount and maturity, as requested by the transferor. The Registrar may, however, close the books for registration of any transfer of any Bond or portion thereof selected or called for redemption. No transfer or exchange of a Bond shall affect its order of registration for purposes of redemption pursuant to Section 2.05.

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

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

(e) Improper or Unauthorized Transfer. When any 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 Bond or separate instrument of transfer is valid and genuine and that the requested transfer is legally authorized. The Registrar shall incur no liability for the refusal, in good faith, to make transfers which it, in its judgment, deems improper or unauthorized.

(f) **Persons Deemed Owners.** The County and the Registrar may treat the person in whose name any Bond is at any time registered in the bond register as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal of and interest on such 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 County upon such Bond to the extent of the sum or sums so paid.

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

(h) **Mutilated, Lost, Stolen or Destroyed Bonds.** In case any Bond shall become mutilated or be destroyed, stolen or lost, the Registrar shall deliver a new Bond of like amount, number, maturity date and tenor in exchange and substitution for and upon cancellation of any such mutilated Bond or in lieu of and in substitution for any such Bond destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Registrar in connection therewith; and, in the case of a Bond destroyed, stolen or lost, upon filing with the Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Registrar an appropriate bond or indemnity in form, substance and amount satisfactory to it, in which both the County and the Registrar shall be named as obligees. All Bonds so surrendered to the Registrar shall be cancelled by it and evidence of such cancellation shall be given to the County. If the mutilated, destroyed, stolen or lost Bond has already matured or such Bond has been called for redemption in accordance with its terms, it shall not be necessary to issue a new Bond prior to payment.

2.05. Redemption.

(a) **Mandatory Redemption.** If on any interest payment date there will be a balance in the District Fund after payment of the principal and interest due on all Bonds drawn against it, either from the prepayment of special assessments levied in the District or from the transfer of surplus money from the Construction Account to the Principal Account as provided in Section 3.02 or otherwise, the County Treasurer shall call for redemption on the interest payment date outstanding Bonds, or portions thereof, in an amount which, together with the interest thereon to the interest payment date, will equal the amount of such funds on deposit in the District Fund on that date. The redemption price shall equal the amount of the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption.

(b) **Optional Redemption.** The Bonds are subject to redemption, in whole or in part, at the option of the County from sources of funds available therefor other than those described in Subsection (a) of this Section 2.05 on any interest payment date; provided, however, the Bonds shall not be called for redemption before July 1, 2012, from the proceeds of refunding special improvement district bonds or warrants. The redemption price shall equal the principal amount of the Bonds to be redeemed plus interest accrued to the date of redemption.

(c) **Selection of Bonds for Redemption; Partial Redemption.** If less than all of the Bonds are to be redeemed, Bonds shall be redeemed in order of the stated maturities thereof. If less than all Bonds of a stated maturity are to be redeemed, the Bonds of such maturity shall be selected for redemption in \$5,000 principal amounts selected by the Registrar by lot or other manner it deems fair. Upon partial redemption of a Bond, a new Bond or Bonds will be delivered to the registered owner without charge, representing the remaining principal amount thereof outstanding.

(d) **Notice and Effect of Redemption.** The date of redemption and the principal amount of the Bonds shall be fixed by the County Treasurer, who shall give notice thereof to the Registrar in sufficient time for the Registrar to give notice, by first class mail, postage prepaid, or by other means required by the securities depository, to the owner or owners of such Bonds at their addresses appearing in the bond register, of the numbers of the Bonds or portions thereof to be redeemed and the date on which payment will be made, which date shall be not less than thirty (30) days after the date of mailing notice. On the date so fixed interest on the Bonds or portions thereof so redeemed shall cease.

2.06. Form. The Bonds shall be drawn in substantially the form set forth in Exhibit A hereto, and by this reference made a part hereof, with such modifications as are permitted by the Act.

2.07. Execution, Registration and Delivery. The Bonds shall be prepared under the direction of the County Treasurer and shall be executed on behalf of the County by the signatures of the Chair of the Board of County Commissioners, the County Clerk and Recorder and the County Treasurer; provided that the signatures and the corporate seal may be printed, engraved or lithographed facsimiles of the originals. The seal of the County need not be impressed or imprinted on any Bond. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of any Bond, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this resolution unless a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate of authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this resolution. The Bonds shall be registered in order of their serial numbers by the Registrar, as attested by the Certificate of Authentication, as of September 15, 2004. When the Bonds have been so executed, authenticated and registered, they shall be delivered by the Registrar to the Purchaser upon payment of the purchase price in accordance with the contract of sale heretofore made and executed. The Purchaser shall not be obligated to see to the application of the purchase price, but from the proceeds of the Bonds the County Treasurer shall credit forthwith \$26,150 to the Revolving Fund, as required by Section 7-12-2153(2) of the Act, any accrued interest to the Interest Account in the District Fund, and the balance of such proceeds to the Construction Account in the District Fund.

2.08. Securities Depository for the 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 Bond, the person in whose name such Bond is recorded as the beneficial owner of such 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 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 the Bonds as securities depository.

"Representation Letter" shall mean the Blanket Issuer Letter of Representations from the County to DTC, attached to this resolution as Exhibit B, which is hereby incorporated by reference and made a part hereof.

(b) The Bonds shall be initially issued as separately authenticated fully registered Bonds, and one Bond shall be issued in the principal amount of each stated maturity of the Bonds. Upon initial issuance, the ownership of such Bonds shall be registered in the Bond register in the name of Cede & Co., as nominee of DTC. The Registrar and the County may treat DTC (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, if any, giving any notice permitted or required to be given to registered owners of Bonds under this Resolution, registering the transfer of Bonds, and for all other purposes whatsoever; and neither the Registrar nor the County shall be affected by any notice to the contrary. Neither the Registrar nor the County shall have any responsibility or obligation to any Participant, any Person claiming a beneficial ownership interest in the Bonds under or through DTC or any Participant, or any other Person which is not shown on the Bond register as being a registered owner of any Bonds, 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 Bonds, with respect to any notice which is permitted or required to be given to owners of Bonds under this Resolution, with respect to the selection by DTC or any Participant of any person to receive payment in the event of a partial redemption of the Bonds, or with respect to any consent given or other action taken by DTC as registered owner of the Bonds. So long as any Bond is registered in the name of Cede & Co., as nominee of DTC, the Registrar shall pay all principal of and interest on such Bond, and shall give all notices with respect to such 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 County's obligations with respect to the principal of and interest on the Bonds to the extent of the sum or sums so paid. No Person other than DTC shall receive an authenticated Bond for each separate stated maturity evidencing the obligation of the County 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 Bonds will be transferable to such new nominee in accordance with paragraph (e) hereof.

(c) In the event the County determines that it is in the best interest of the Beneficial Owners that they be able to obtain Bonds in the form of Bond certificates, the County may notify DTC and the Registrar, whereupon DTC shall notify the Participants of the availability through DTC of Bonds in the form of certificates. In such event, the Bonds will be transferable in accordance with paragraph (e) hereof. DTC may determine to discontinue providing its services with respect to the Bonds at any time by giving notice to the County and the Registrar and discharging its responsibilities with respect thereto under applicable law. In such event the Bonds will be transferable in accordance with paragraph (e) hereof.

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

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

Section 3. District Fund; Assessments.

3.01. District Fund. There is hereby created and established the District Fund designated as the "Rural Special Improvement District No. 138 Fund," which shall be maintained by the County Treasurer on the books and records of the County separate and apart from all other funds of the County. Within the District Fund there shall be maintained three separate accounts, designated as the "Construction Account," "Principal Account," and "Interest Account", respectively.

3.02. Construction Account. There shall be credited to the Construction Account certain proceeds of the sale of the Bonds as provided in Section 2.07. Any earnings on investment of money in the Construction Account shall be retained therein. All costs and expenses of constructing the Improvements to be paid from proceeds of the Bonds shall be paid from time to time as incurred and allowed from the Construction Account in accordance with the provisions of applicable law, and money in the Construction Account shall be used for no other purpose; provided that upon completion of the Improvements and after all claims and expenses with respect to the Improvements have been fully paid and satisfied, any money remaining in the Construction Account shall be transferred to the Principal Account and used to redeem Bonds as provided in Section 3.03.

3.03. Principal Account and Interest Account. Money in the Principal Account and the Interest Account shall be used only for payment of the principal of and interest on the Bonds as such payments become due or to redeem Bonds. From the proceeds of the Bonds, there shall be deposited in the Interest Account any interest on the Bonds accrued to the date of their delivery. Interest income on funds in the Accounts shall be retained therein and used as any other funds therein. Upon collection of the installment of principal and interest due on November 30 and May 31 of each fiscal year on the special assessments to be levied with respect to the Improvements, the County Treasurer shall credit to the Interest Account so much of said special assessments as is collected as interest payment and the balance thereof to the Principal Account. Any installment of any

special assessment paid prior to its due date with interest accrued thereon to the next succeeding interest payment date shall be credited with respect to principal and interest payments in the same manner as other assessments are credited to the District Fund. All money in the Interest Account and the Principal Account shall be used first to pay interest due, and any remaining money shall be used to pay Bonds then due and, if money is available, to redeem Bonds in accordance with Section 2.05; provided that any money transferred to a Principal Account from the Construction Account pursuant to Section 3.02 shall be applied to redeem Bonds to the extent possible on the next interest payment date for which notice of redemption may properly be given pursuant to Section 2.05. Redemption of Bonds shall be as provided in Section 2.05, and interest shall be paid as accrued thereon to the date of redemption, in accordance with the provisions of Section 7-12-2174 of the Act.

3.04. Loans from Revolving Fund. The Board shall annually or more often if necessary issue an order authorizing a loan or advance from the Revolving Fund to the District Fund in an amount sufficient to make good any deficiency then existing in the Interest Account and shall issue an order authorizing a loan or advance from the Revolving Fund to the District Fund in an amount sufficient to make good any deficiency then existing in the Principal Account in such order and in each case to the extent that money is available in the Revolving Fund. A deficiency shall be deemed to exist in the Principal Account or the Interest Account if the money on deposit therein on any December 15 or June 15 (excluding amounts in the Principal Account representing prepaid special assessments) is less than the amount necessary to pay Bonds due (other than upon redemption), and interest on all Bonds payable, on the next succeeding interest payment date. Pursuant to a Resolution adopted on May 11, 1984, the County has undertaken and agreed to provide funds for the Revolving Fund by levying such tax or making such loan from the General Fund as authorized by Montana Code Annotated, Section 7-12-2182. In the event that the balance on hand in the Revolving Fund fifteen days prior to any date when interest is due on special improvement district bonds or warrants of the County is not sufficient to make good all deficiencies then existing in the special improvement district funds for which the County has covenanted to make loans from the Revolving Fund, the balance on hand in the Revolving Fund shall be allocated to the funds of the special improvement districts in which such deficiencies then exist in proportion to the amounts of the deficiencies on the respective dates of receipt of such money, until all interest accrued on such special improvement district bonds or warrants of the County has been paid. On any date when all accrued interest on special improvement district bonds and warrants of the County payable from funds for which the County has covenanted to make loans from the Revolving Fund has been paid, any balance remaining in the Revolving Fund shall be lent or advanced to the special improvement district funds for payment and redemption of bonds to the extent the special improvement district funds are deficient for such purpose, and, if money in the Revolving Fund is insufficient therefor, pro rata, in an amount proportionate to the amount of such deficiency. The County hereby determines, covenants and agrees to levy the property tax described in the immediately preceding paragraph to provide funds for the Revolving Fund so long as any Bonds are outstanding to the extent required under the provisions of this Resolution and the Act, even though such property tax levy may, under applicable law, require that property tax levies of the County for other purposes be reduced correspondingly.

Section 4. Covenants. The County covenants and agrees with the owners from time to time of each of the Bonds that until all the Bonds and interest thereon are fully paid:

4.01. Compliance with Resolution. The County will hold the District Fund and the Revolving Fund as trust funds, separate and apart from all of its other funds, and the County, its officers and agents, will comply with all covenants and agreements contained in this resolution. The provisions hereinabove made with respect to the District Fund and the Revolving Fund are in accordance with the undertaking and agreement of the County made in connection with the public offering of the Bonds and the sale of the Bonds as set forth in Section 1.06.

4.02. Construction of Improvements. The County will do all acts and things necessary to enforce the provisions of the construction contracts and bonds referred to in Section 1.04 and to ensure the completion of the Improvements for the benefit of the District in accordance with the plans and specifications and within the time therein provided, and will pay all costs thereof promptly as incurred and allowed, out of the District Fund and within the amount of the proceeds of the Bonds appropriated thereto.

4.03. Levy of Assessments. The County will do all acts and things necessary for the final and valid levy of special assessments upon all assessable real property within the boundaries of the District in accordance with the Constitution and laws of the State of Montana and the Constitution of the United States, in an aggregate principal amount not less than \$523,000. Such special assessments shall be levied on the basis or bases prescribed in the Resolution of Intention, and shall be payable in substantially equal, semiannual installments of principal and interest over a period of 20 years, with interest on the whole amount remaining unpaid at an annual rate equal to the sum of: (i) the average annual interest rate borne by the then-outstanding Bonds, plus (ii) one-half of one percent (0.50%) per annum, interest being payable with principal installments. The assessments to be levied will be payable on the 30th day of November in each of the years 2005 through 2024, and on the 31st day of May in the years 2006 through 2025, inclusive, if not theretofore paid, and shall become delinquent on such date unless paid in full. The first partial payment of each assessment shall include interest on the entire assessment from the date of original registration of the Bonds to January 1, 2006 and each subsequent partial payment shall include interest for six months on that payment and the then remaining balance of the special assessment. The assessments shall constitute a lien upon and against the property against which they are made and levied, which lien may be extinguished only by payment of the assessment with all penalties, cost and interest as provided in Montana Code Annotated, Section 7-12-2168. No tax deed issued with respect to any lot or parcel of land shall operate as payment of any installment of the assessment thereon which is payable after the execution of such deed, and any tax deed so issued shall convey title subject only to the lien of said future installments, as provided in Montana Code Annotated, Section 15-18-214.

4.04. Reassessment. If at any time and for whatever reason any special assessment or tax herein agreed to be levied is held invalid, the County and this Board, its officers and employees, will take all steps necessary to correct the same and to reassess and re-levy the same, including the ordering of work, with the same force and effect as if made at the time provided by law, ordinance or resolution relating thereto, and will reassess and re-levy the same with the same force and effect as an original levy thereof, as authorized in Montana Code Annotated, Section 7-12-2165. Any special assessment, or reassessment or re-levy shall, so far as is practicable, be levied and collected as it would have been if the first levy had been enforced including the levy and collection of any interest accrued on the first levy. If proceeds of the Bonds, including investment income thereon, are applied to the redemption of such Bonds, as provided in Montana Code Annotated, Sections 7-12-

2173 and 7-12-2174, or if refunding bonds are issued and the principal amount of the outstanding Bonds of the District is decreased or increased, the County will reduce or increase, respectively, the assessments levied in the District and then outstanding pro rata by the principal amount of such prepayment or the increment above or below the outstanding principal amount of bonds represented by the refunding bonds. The County and this Board, its officers and employees will reassess and re-levy such assessments, with the same effect as an original levy, in such reduced or increased amounts in accordance with the provisions of Montana Code Annotated, Sections 7-12-2158 through 7-12-2159.

4.05. Absence of Litigation. There is now no litigation pending or, to the best knowledge of the County, threatened questioning the validity or regularity of the creation of the District, the contracts for construction of the Improvements or the undertaking and agreement of the County to levy special assessments therefor and to make good any deficiency in the collection thereof through the levy of taxes for and the making of advances from the Revolving Fund, or the right and power of the County to issue the Bonds or in any manner questioning the existence of any condition precedent to the exercise of the County's powers in these matters. If any such litigation should be initiated or threatened, the County will forthwith notify in writing the Purchaser, and will furnish the Purchaser a copy of all documents, including pleadings, in connection with such litigation.

4.06. Waiver of Penalty and Interest. The County covenants not to waive the payment of penalty or interest on delinquent assessments levied on property in the District for costs of the Improvements, unless the County determines, by resolution of the Board of County Commissioners, that such waiver is in the best interest of the owners of the outstanding Bonds.

Section 5. Tax Matters.

5.01. Use of Improvements. The Improvements will be owned and operated by the County and available for use by members of the general public on a substantially equal basis. The County shall not enter into any lease, use or other agreement with any non-governmental person relating to the use of the Improvements or security for the payment of the Bonds which might cause the Bonds to be considered "private activity bonds" or "private loan bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code").

5.02. General Covenant. The County covenants and agrees with the owners from time to time of the Bonds that it will not take or permit to be taken by any of its officers, employees or agents any action that would cause the interest on the Bonds to become includable in gross income for federal income tax purposes under the Code and applicable Treasury Regulations applicable to the Bonds and promulgated under the Code, including, without limitation, Treasury Regulations (the "Regulations"), and covenants to take any and all actions within its powers to ensure that the interest on the Bonds will not become includable in gross income for federal income tax purposes under the Code and the Regulations.

5.03. Arbitrage Certification. The Chair of the Board, the County Clerk and Recorder and the County Treasurer, being the officers of the County charged with the responsibility for issuing the Bonds pursuant to this resolution, are authorized and directed to execute and deliver to the Purchaser a certificate in accordance with the provisions of Section 148 of the Code, and Section 1.148-2(b) of the Regulations, stating that on the basis of facts, estimates and circumstances in existence on the date of issue and delivery of the Bonds, it is reasonably expected that the proceeds of the Bonds will be used in a manner that would not cause the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and the Regulations.

5.04. Arbitrage Rebate Exemption.

(a) The County hereby represents that the Bonds qualify for the exception for small governmental units to the arbitrage rebate provisions contained in Section 148(f) of the Code. Specifically, the County represents:

(1) Substantially all (not less than 95%) of the proceeds of the Bonds (except for amounts to be applied to the payment of costs of issuance or representing accrued interest) will be used for local governmental activities of the County.

(2) The aggregate face amount of all "tax-exempt bonds" (including warrants, contracts, leases and other indebtedness, but excluding private activity bonds and current refunding bonds) issued by or on behalf of the County and all subordinate entities thereof during 2004 is not reasonably expected to exceed \$5,000,000. To date in 2004, the County has issued no such tax-exempt bonds, and in the calendar years 1999 through 2003, the County issued no such tax-exempt bonds.

b) If notwithstanding the provisions of paragraph (a) of this Section 5.04, the arbitrage rebate provisions of Section 148(f) of the Code apply to the Bonds, the County hereby covenants and agrees to make the determinations, retain records and rebate to the United States the amounts at the times and in the manner required by said Section 148(f).

5.05. Information Reporting. The County shall file with the Secretary of the Treasury, not later than November 15, 2004, a statement concerning the Bonds containing the information required by Section 149(e) of the Code.

5.06. Qualified Tax-Exempt Obligations. Pursuant to Section 265(b)(3)(B)(ii) of the Code, the County hereby designates the Bonds as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Code. The County has not designated any obligations in 2004 other than the Bonds under Section 265(b)(3). The County hereby represents that it does not anticipate that obligations bearing interest not includable in gross income for purposes of federal income taxation under Section 103 of the Code (including refunding obligations as provided in Section 265(b)(3) of the Code and including "qualified 501(c)(3) bonds" but excluding other "private activity bonds," as defined in Sections 141(a) and 145(a) of the Code) will be issued by or on behalf of the County and all "subordinate entities" of the County in 2004 in an amount greater than \$10,000,000.

Section 6. Authentication of Transcript. The officers of the County are hereby authorized and directed to furnish to the Purchaser and to bond counsel certified copies of all proceedings relating to the issuance of the Bonds and such other certificates and affidavits as may be required to show the right, power and authority of the County to issue the Bonds, and all statements contained in and shown by such instruments, including any heretofore furnished, shall constitute representations of the County as to the truth of the statements purported to

be shown thereby.

Section 7. Discharge.

7.01. General. When the liability of the County on all Bonds issued under and secured by this resolution has been discharged as provided in this Section 7, all pledges, covenants and other rights granted by this resolution to the owners of such obligations shall cease.

7.02. Payment. The County may discharge its liability with reference to any Bond or installment of interest thereon which is due on any date by on or before that date depositing with the Registrar funds sufficient, or, if a County officer is the Registrar, mailing to the registered owner of such Bond a check or draft in a sum sufficient and providing proceeds available, for the payment thereof in full; or if any Bond or installment of interest thereon shall not be paid when due, the County may nevertheless discharge its liability with reference thereto by depositing with the Registrar funds sufficient, or, if a County officer is the Registrar, by mailing to the registered owner thereof a check or draft in a sum sufficient and providing proceeds available, for the payment thereof in full with interest accrued to the date of such deposit or mailing.

7.03. Prepayment. The County may also discharge its obligations with respect to any Bonds called for redemption on any date when they are prepayable according to their terms, by on or before that date depositing with the Registrar funds sufficient, or, if a County officer is the Registrar, mailing to the registered owner of such Bond a check or a draft in a sum sufficient and providing proceeds available, for the payment of the principal, interest and redemption premium, if any, which are then due; provided that notice of such redemption has been duly given as provided herein or irrevocably provided for.

7.04. Escrow. The County may also at any time discharge its liability in its entirety with reference to the Bonds, subject to the provisions of law now or hereafter authorizing and regulating such action, by depositing irrevocably in escrow, with a bank qualified by law as an escrow agent for this purpose, cash or securities which are authorized by law to be so deposited, bearing interest payable at such times and at such rates and maturing on such dates as shall be required, without reinvestment, to provide funds sufficient to pay all principal and interest to become due on all Bonds on or before maturity or, if any Bond has been duly called for redemption or notice of such redemption has been irrevocably provided for, on or before the designated redemption date.

7.05. Irrevocable Deposits. If an officer of the County is the Registrar, any deposit made under this Section 7 with the Registrar shall be irrevocable and held for the benefit of the owners of Bonds in respect of which such deposits have been made.

Section 8. Continuing Disclosure. Bidders and other participating underwriters in the primary offering of the Bonds need not 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"), because the aggregate principal amount of the Bonds and any other securities required to be integrated with the Bonds is less than \$1,000,000. Consequently, the County will not enter into any undertaking to provide continuing disclosure of any kind with respect to the Bonds.

Section 9. Repeals and Effective Date.

9.01. Repeal. All provisions of other resolutions and other actions and proceedings of the County and this Board that are in any way inconsistent with the terms and provisions of this resolution are repealed, amended and rescinded to the full extent necessary to give full force and effect to the provisions of this resolution.

9.02. Effective Date. This resolution shall take effect immediately upon its passage and adoption by this Board.

PASSED by the Board of County Commissioners of Flathead County, Montana, this 9th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

By /s/Robert W. Watne
Robert W. Watne, Member

By /s/ Gary D. Hall
Gary D. Hall, Member

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

EXHIBIT A
UNITED STATES OF AMERICA
STATE OF MONTANA
FLATHEAD COUNTY
RURAL SPECIAL IMPROVEMENT DISTRICT NO. 138 BOND

Interest at the rate per annum specified below
payable January 1, 2006 and semiannually thereafter
on the 1st day of January and the 1st day of July in each year.
No. _____

\$ _____

<u>Date of Original</u> <u>Rate</u>	<u>Maturity</u>	<u>Issue</u>	<u>CUSIP</u>
%	January 1, 2006	September 15, 2004	

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

FOR VALUE RECEIVED, Flathead County, Montana, will pay to the registered owner identified above, or registered assigns, on the maturity date specified above the principal amount specified above, solely from the revenues hereinafter specified, as authorized by Resolution No. 1710D adopted September 9, 2004 (the "Resolution"), all subject to the provisions hereinafter described relating to the redemption of this Bond before maturity. This Bond bears interest at the rate per annum specified above from the date of registration of this Bond, as expressed herein, or from such later date to which interest hereon has been paid or duly provided for, until the maturity date specified above or an earlier date on which this Bond shall have been duly called for redemption by the County Treasurer. Interest on this Bond is payable semiannually, commencing January 1, 2006, on the first day of January and the first day of July in each year, to the owner of record of this Bond appearing as such in the bond register as of the close of business on the 15th day (whether or not such is a business day) of the immediately preceding month. Interest on and, upon presentation and surrender hereof at the principal office of the bond registrar and paying agent hereinafter named, the principal of this Bond are payable by check or draft of the Flathead County Clerk and Recorder as Bond Registrar, Transfer Agent and Paying Agent, or the successor designated under the Resolution (the "Registrar"). The principal of and interest on this Bond are payable in lawful money of the United States of America.

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 County.

This Bond is one of an issue in the aggregate principal amount of \$523,000 (the "Bonds"), all of like date of original issue and tenor, except as to serial number, denomination, date, interest rate and maturity date. The 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 12, Part 21, as amended (the "Act"), to finance the costs of certain local improvements (the "Improvements") for the special benefit of property located in Rural Special Improvement District No. 138 of the County (the "District"). The Bonds are issuable only as fully registered bonds of single maturities in denominations of \$5,000 or any integral multiple thereof.

This Bond is payable from the collection of a special tax or assessment levied upon all assessable real property within the boundaries of the District, in an aggregate principal amount of not less than \$523,000, except as such amount may be reduced or increased in accordance with provisions of Montana law. Such assessments constitute a lien against the assessable real estate within the District and are to be deposited into the Rural Special Improvement District No. 138 Fund of the County (the "District Fund"). The Bonds are not general obligations of the County.

The County has also validly established a Rural Special Improvement District Revolving Fund (the "Revolving Fund") to secure the payment of certain of its rural special improvement district bonds, including the Bonds. The County has also agreed, to the extent permitted by the Act, to issue orders annually authorizing loans or advances from the Revolving Fund to the District Fund, in amounts sufficient to make good any deficiency in the District Fund to pay principal of or interest on the Bonds, to the extent that funds are available in the Revolving Fund, and to provide funds for the Revolving Fund by annually making a tax levy or loan from its general fund in an amount sufficient for that purpose, subject to the limitation that no such tax levy or loan may in any year cause the balance in the Revolving Fund to exceed five percent of the principal amount of the County's then outstanding rural special improvement district bonds secured thereby and the durational limitations specified in the Act. While any property tax levy to be made by the County to provide funds for the Revolving Fund is subject to levy limits under current law, the County has agreed in the Resolution to levy property taxes to provide funds for the Revolving Fund to the extent described in this paragraph and, if necessary, to reduce other property tax levies correspondingly to meet applicable levy limits.

The Bonds are subject to mandatory redemption in order of stated maturities and within a stated maturity in \$5,000 principal amounts selected by lot or other manner deemed fair by the Registrar, on any interest payment date if, after paying all principal and interest then due on the Bonds, there are funds to the credit of the District Fund, from the prepayment of assessments levied in the District or from surplus proceeds of the Bonds not required to pay costs of the Improvements, for the redemption thereof, and in the manner provided for the redemption of the same.

The Bonds are subject to redemption at the option of the County from other sources of funds available therefor on any interest payment date; provided, however, that the County hereby agrees that the Bonds are not to be called for redemption before July 1, 2012, from the proceeds of refunding special improvement district bonds or warrants. The redemption price is equal to the principal amount of the Bonds or portions thereof to be redeemed plus interest accrued thereon to the date of redemption. The date of redemption and principal amount shall be fixed by the County Treasurer, who shall give notice thereof to the Registrar in sufficient time for the Registrar to give notice, by first class mail, postage prepaid, or by other means required by the securities depository, to the owner or owners of such Bonds at their addresses shown on the bond register, of the Bonds or portions thereof to be redeemed and the date on which payment will be made, which date shall not be less than thirty (30) days after the date of mailing of notice, on which date so fixed interest shall cease. On the date so fixed interest on the Bonds or portions thereof so redeemed shall cease to accrue. Upon partial redemption of any Bond, a new Bond or Bonds will be delivered to the registered owner without charge, representing the

remaining principal amount outstanding.

The Bonds have been designated by the County as "qualified tax-exempt obligations" pursuant to Section 265 of the Internal Revenue Code of 1986, as amended.

As provided in the Resolution and subject to certain limitations set forth therein, this Bond is transferable upon the books of the County at the operations center of the Registrar, by the registered owner hereof in person or by his attorney duly authorized in writing upon surrender hereof together with a written instrument of transfer satisfactory to the Registrar, duly executed by the registered owner or his attorney; and may also be surrendered in exchange for Bonds of other authorized denominations. Upon such transfer or exchange, the County will cause a new 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 County and the Registrar may deem and treat the person in whose name this Bond is registered as the absolute owner hereof, whether this Bond is overdue or not, for the purpose of receiving payment and for all other purposes, and neither the County nor the Registrar shall be affected by any notice to the contrary.

IT IS HEREBY CERTIFIED, RECITED, COVENANTED AND AGREED that all things required to be done precedent to the issuance of this Bond have been properly done, happened and been performed in the manner prescribed by the laws of the State of Montana and the resolutions and ordinances of Flathead County, Montana, relating to the issuance thereof; and that the opinion attached hereto is a true copy of the legal opinion given by Bond Counsel with reference to the Bonds, dated the date of original issuance and delivery of the Bonds; and that the opinion attached hereto is a true copy of the legal opinion given by Bond Counsel with reference to the Bonds, dated the date of original issuance and delivery of the Bonds.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Resolution until the Certificate of Authentication and Registration herein shall have been executed by the Registrar by the manual signature of one of its authorized representatives.

IN WITNESS WHEREOF, Flathead County, Montana, by its Board of County Commissioners, has caused this Bond and the certificate on the reverse hereof to be executed by the facsimile signatures of the Chair of the Board of County Commissioners, the County Clerk and Recorder and the County Treasurer, and by a facsimile of the official seal of the County.

(Facsimile Signature)
Chair, Board of County Commissioners

(Facsimile Signature)
County Clerk and Recorder

(Facsimile Seal)

(Facsimile Signature)
County Treasurer

Dated:

CERTIFICATE OF AUTHENTICATION

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

Flathead County Clerk & Recorder,
as Bond Registrar, Transfer Agent, and
Paying Agent

By: _____
Deputy

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 Transfers
to Minors Act
(State)

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

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 Bond Registrar, which requirements include membership or participation in STAMP or such other "signature guaranty program" as may be determined by the Bond Registrar in addition to or in substitution for STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

DOCUMENT FOR SIGNATURE: AGREEMENT FOR MAINTENANCE/RSID #138

Present at the September 9, 2004 9:45 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Deputy County Attorney Jonathan Smith, Kevin Malloy, Clerk & Recorder Paula Robinson, Kevin Malloy from Carver Engineering, and Clerk Eisenzimer.

Chairman Gipe reviewed the maintenance agreement between Flathead County and Big Mountain View Subdivision #2 Homeowners Association and Big Mountain Water Company for operation and maintenance of roads, water and sewer lines being provided through RSID #138.

Commissioner Watne made a **motion** to approve the maintenance agreements and authorize Chairman to sign. Commissioner Hall **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

FINAL PLAT: LASALLE INDUSTRIAL CENTER, LOT 15

Present at the September 9, 2004 10:00 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Planner Kirsten Holland, Dawn Marquardt of Marquardt & Marquardt Surveying, and Clerk Eisenzimer.

Holland reviewed the application submitted for final plat approval for the Amended Plat of Lot 15, LaSalle Industrial Center, by Marquardt & Marquardt Surveying which will create two industrial lots off Ash Road east of Highway 2 in Section 33, Township 29 North, Range 21 West, P.M.M., Flathead County, Montana. The property is zoned I-1, Evergreen & Vicinity Zoning District Preliminary plat approval was waived on June 8, 2004 subject to seven conditions. Staff recommends approval.

Commissioner Watne made a **motion** to adopt Staff Report #FWP-04-28 as Findings of Fact. Commissioner Hall **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

Commissioner Watne made a **motion** to approve the final plat Amended Plat of Lot 15, LaSalle Industrial Center. Commissioner Hall **seconded** the motion. **Aye** – Watne and Hall. Motion carried by quorum.

AUTHORIZATION TO PUBLISH NOTICE OF PUBLIC HEARING: PIERCE ZONE CHANGE/BIGFORK ZONING DISTRICT

Present at the September 9, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Commissioner Hall made a **motion** to authorize the publication of the Notice of Public Hearing and authorize the Chairman to sign. Commissioner Watne **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

NOTICE OF PUBLIC HEARING

The Board of Commissioners of Flathead County, Montana, hereby gives notice pursuant to Section 76-2-205(1), M.C.A., that it will hold a public hearing to consider a request by James R. Pierce, to change the zoning designation in a portion of the Bigfork Area Zoning District from SAG-5 (Suburban Agricultural) and SAG-10 (Suburban Agricultural) to R-2 (One-Family Limited Residential).

The boundaries of the area proposed to be amended from SAG-10 and SAG-5 to R-2 are set forth on Exhibit "A".

The proposed change would change the general character of the zoning regulations applicable to the property from an area intended to protect and preserve smaller agricultural functions and to provide a buffer between urban and unlimited agricultural uses, encouraging concentration of such uses in areas where potential conflict of uses will be minimized, and, in the SAG-5 portion, to provide areas of estate-type residential development to a residential area intended to provide for large tract development in suburban areas, beyond sanitary sewer and/or water lines.

The regulations defining the SAG-10, SAG-5 and R-2 Zones are contained in the Flathead County Zoning Regulations, on file for public inspection at the Office of the County Clerk and Recorder, Courthouse, Kalispell, Montana, in Permanent File No. 93270 13500.

The public hearing will be held on **October 4, 2004, at 9:30 o'clock a.m.**, in the Office of the Board of Commissioners of Flathead County, Courthouse, West Annex, Kalispell, Montana. At the public hearing, the Board of Commissioners will give the public an opportunity to be heard regarding the proposed change in the regulations for the described portion of the Bigfork Area Zoning District.

DATED this 9th day of September, 2004.

BOARD OF COUNTY COMMISSIONERS

Flathead County, Montana

By /s/Howard W. Gipe
Howard W. Gipe, Chairman

ATTEST:
Paula Robinson, Clerk

By /s/ Monica R. Eisenzimer
Deputy

Publish on September 14, and September 21, 2004.

EXHIBIT A
ZONE CHANGE FROM SAG-10 AND SAG-5 TO R-2

The property is located in the Holt Zoning District, just north of Bigfork, and is situated between Ice Box Canyon and Streeter's Corner on the east side of Highway 35. The subject property may be described as Tract 6 in Section 24, Township 27 North, Range 20 West, P.P.M., Flathead County, Montana.

CONSIDERATION OF ADOPTION OF RESOLUTION: HOME GRANT/AOA

Present at the September 9, 2004 10:15 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, and Clerk Eisenzimer.

Chairman Gipe reviewed Resolution 1745 which allows Flathead County on Aging to appropriate funding to qualified senior citizens for home repair.

Commissioner Hall made a **motion** to adopt Resolution 1745. Commissioner Watne **seconded** the motion. **Aye** - Watne, Hall and Gipe. Motion carried unanimously.

PRELIMINARY PLAT: STELLA'S ACRES

Present at the September 9, 2004 10:30 A.M. Meeting were Chairman Gipe, Commissioners Watne and Hall, Planner Johna Morrison, Cal Scott, Steve Johnson, Ardis Larsen of Larsen Engineering & Surveying, and Clerk Eisenzimer.

Morrison reviewed the preliminary plat filed by Steve Johnson and Larsen Engineering & Surveying for approval of Stella's Acres Subdivision, a minor subdivision that will create five single-family residential lots. The subdivision is located east of US Highway 2, near Windmill Storage, and is situated approximately one mile south of Columbia Falls. Staff recommends approval.

Commissioner Hall made a **motion** to adopt Staff Report #FSR-04-34 as Findings of Fact. Commissioner Watne **seconded** the motion. **Aye** - Watne, Gipe and Hall. Motion carried unanimously.

Discussion continued regarding condition 2 which should be amended to read that developer will pave the entire internal subdivision road and improve the access road.

Commissioner Watne made a **motion** to approve Preliminary Plat for Stella's Acres as amended subject to 15 conditions. Commissioner Hall **seconded** the motion. **Aye**- Watne, Hall and Gipe. Motion carried unanimously.

11:00 a.m. Chairman Gipe and Commissioner Watne attended an on-site meeting at the Vo-Ag Building
12:00 p.m. Commissioner Hall attended the Whitefish Stakeholders meeting at 1st Interstate Bank
2:00 p.m. AOA Board meeting at Kalispell Senior Center
4:00 pm. Commissioner Hall attended a Natural Resource Meeting at Commissioners Meeting Room
7:30 p.m. Fair Board Meeting at Fair Office

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 9, 2004.

FRIDAY, SEPTEMBER 10, 2004

The Board of County Commissioners met in continued session at 8:00 o'clock A.M. Chairman Gipe, Commissioners Hall and Watne, and Clerk Robinson were present.

12:00 p.m. Commissioner Hall attended the Whitefish Stakeholder's Meeting at 1st Interstate Bank

At 5:00 o'clock P.M., the Board continued the session until 8:00 o'clock A.M. on September 13, 2004.