



REQUEST FOR COMMISSION ACTION

Action Requested: Approve the attached “RESOLUTION RELATING TO A PROJECT ON BEHALF OF CRAIG A. LANGEL AND THE ISSUANCE OF A REVENUE BOND TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE OF A BOND THEREFOR; AND ALLOCATING A PORTION OF THE COUNTY’S AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS”

Date Required: 5/19/10

Background: On April 13, 2010, Radio Way LLC a.k.a. Craig Langel submitted a completed County application for a Recovery Zone Bond allocation. On April 20, 2010 the Commissioners held a meeting giving the project preliminary approval and directing the publication of three public notices and scheduling a public hearing for May 19, 2010.

The applicant is planning to purchase the property which includes an office building located at 2700 Radio Way, Missoula, MT. 59808. The property has been vacant for three years and is in need extensive renovation and improvements.

The project is expected to cost \$1,225,000 of which \$631,000 is proposed to come from a Recovery Zone Bond issuance. The applicants have a written commitment from First Security Bank to underwrite the bonds or make a loan on the project.

The project began in March 2010 and will be completed within 12 months during which time 3 to 5 FTE construction jobs will be created. At the completion of the project a minimum of 6 new jobs will be created averaging \$50K per year.

Recommendation: Approve the attached resolution giving final “Approval” to the project.

Fiscal Impact or Budget Implications: None, this is a pass through of tax exempt borrowing capacity from the County to a private entity as allowed for under the terms of A.R.R.A.

Submitted by: Andrew V. Czorny
Department: Financial Services
Reviewed by: _____

Date: 5/19/2010
Tele: 4919
Tele: _____

Commissioners Action:

(1) Consent Agenda; (2) Refer to Admin. Meeting; (3) Other: (specify)

Chair: () _____

Date/Initials: _____

Commissioner: () _____

Date/Initials: _____

Commissioner: () _____

Date/Initials: _____

Routing Instructions:

Original – 1 original to Andrew V. Czorny, 4 originals to Mae Nan Ellingson

CERTIFICATE AS TO RESOLUTION AND ADOPTING VOTE

I, the undersigned, being the duly qualified and acting recording officer of Missoula County, Montana (the "County "), hereby certify that the attached resolution is a true copy of Resolution No. _____, entitled: "RESOLUTION RELATING TO A PROJECT ON BEHALF OF CRAIG A. LANGEL AND THE ISSUANCE OF A REVENUE BOND TO FINANCE THE COSTS THEREOF UNDER MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5, PART 1, AS AMENDED; APPROVING THE PROJECT; AUTHORIZING THE ISSUANCE OF A BOND THEREFOR; AND ALLOCATING A PORTION OF THE COUNTY'S AUTHORITY TO ISSUE RECOVERY ZONE FACILITY BONDS" (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 May 19, 2010, 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: _____;
_____;
voted against the same: _____;
abstained from voting thereon: _____;
or were absent: _____.

WITNESS my hand officially this _____ day of May, 2010

County Clerk and Recorder/Treasurer

RESOLUTION NO. _____

RESOLUTION RELATING TO A PROJECT ON BEHALF OF
CRAIG A. LANGEL AND THE ISSUANCE OF A REVENUE
BOND TO FINANCE THE COSTS THEREOF UNDER
MONTANA CODE ANNOTATED, TITLE 90, CHAPTER 5,
PART 1, AS AMENDED; APPROVING THE PROJECT;
AUTHORIZING THE ISSUANCE OF A BOND THEREFOR;
AND ALLOCATING A PORTION OF THE COUNTY'S
AUTHORITY TO ISSUE RECOVERY ZONE FACILITY
BONDS

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

Section 1. Recitals.

1.01 Pursuant to Montana Code Annotated, Title 90, Chapter 5, Part 1, as amended (the "Act"), the County is authorized to enter into agreements upon terms the governing body considers advantageous and not in conflict with the provisions of the Act to issue its revenue bonds and sell such bonds at public or private sale in such manner and at such times as may be determined by this body to be most advantageous; and to loan the proceeds of its revenue bonds to others for the purpose of defraying the cost of acquiring or improving any land, any building or other improvement, and any other real or personal property considered necessary in connection with the improvement, whether or not now in existence, that is suitable for use for commercial enterprises. Such revenue bonds may be secured by a pledge of the revenues to be derived by the County from a loan agreement with the borrower, by a mortgage or trust indenture on the project and by such other security devices as may be deemed advantageous. Under the provisions of the Act, any bonds so issued by the County shall be special, limited obligations of the County and the bonds shall not constitute nor give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

1.02 Under Section 1401 of the American Recovery and Reinvestment Act of 2009, ("ARRA"), as codified at Sections 1400U-1 through 1400U-3 of the Internal Revenue Code of 1986, as amended (the "Code"), gross income for federal income tax purposes does not include interest on any bond designated by an eligible issuer thereof as a "recovery zone facility bond."

1.03 Under Internal Revenue Service Notice 2009-50, the State of Montana was allocated authority to issue \$135,000,000 of bonds designated as recovery zone facility bonds pursuant to Section 1400U-1(a)(3) of the Code and Montana Code Annotated Section 17-5-116. A portion of that allocation is available to cities and counties for certain projects under the Montana Department of Administration's Recovery Zone Bond Allocation Policy.

1.04 The County has applied for and received a recovery zone facility bond allocation for the Project (as hereinafter defined) from the Montana Department of Administration in the amount of 631,000, which is sufficient to fund a portion of the project described herein and to issue recovery zone facility bonds therefor.

1.05 The County is authorized under the Act to issue economic development revenue bonds and to designate them as recovery zone facility bonds within the meaning of the Code under Montana Code Annotated Section 7-7-140.

1.06 The County, pursuant to Resolution No. 2009-123, has designated the area within the County as a recovery zone suffering from significant poverty, unemployment, rate of home foreclosures, or general distress.

1.07 The County, pursuant to Resolution 2009-145, has established criteria for approval of projects for financing with its recovery zone facility bonds.

1.08 The Board, by Resolution No. 2010-043, duly adopted on April 20, 2010, called a public hearing on a project proposed by Craig A. Langel (the "Applicant") and the issuance of special limited obligations therefor under Title 90, Chapter 5, Part 1, Montana Code Annotated (the "Act"), to finance a portion of the costs of purchasing 50% of the assets of Radio Way LLC, a Montana limited liability company, consisting of a 6,000 square feet office building located at 2700 Radio Way in the City of Missoula, Montana and remodeling, renovating, furnishing and equipping the building (the "Project"), and to pay certain costs of issuance of the Bonds. The Project is expected to cost approximately \$1,225,000. Limited obligation bonds shall be issued by the County to the Applicant or a legal entity to be formed under Montana law comprised of the Applicant (the "Borrower") in the maximum approximate aggregate principal amount of \$631,000, in one or more series at one time or from time to time (the "Bonds"), the proceeds of which will be loaned by the County to the Borrower to finance a portion of the costs of the Project, and to pay certain costs of issuance of the Bonds. The Project will be owned by the Borrower.

Section 2. Public Hearing. At the public hearing duly called, noticed and held as required by the Act all persons who appeared were afforded an opportunity to express their views with respect to the proposal to undertake and finance the Project. Based on the public hearing, any written comments filed with the County Clerk and Recorder/Treasurer and such other facts and circumstances as this Board deems relevant, this Board hereby finds, determines and declares, as follows:

(a) The Project, as proposed, will be suitable for use as a commercial enterprise eligible for financing under the Act and in accordance with Sections 1400U-1 and 1400U-3 of the Code, and the County is authorized to issue revenue bonds to defray the costs of making a loan to the Borrowers, the proceeds of which will be used to finance a portion or all of the costs of constructing, equipping and improving the Project and expenses incidental to the issuance of the Bonds, including any security for the Bonds, and to enter into a Loan Agreement with the Borrowers requiring loan repayments from the Borrowers in amounts sufficient to repay the loan when due and requiring the Borrowers to pay all costs of maintaining and insuring the Project.

(b) The Project is adjacent to one of the County's major thoroughfares and in an area of growth for both the City of Missoula and the County.

(c) The Project will allow for the improvement and reuse of a large commercial office building that has been vacant for several years.

(d) The loan repayments to be made by the Borrower under the Loan Agreement shall be established at a level and payable in installments at times sufficient to pay all principal of, premium, if any, and interest on the Bonds when due.

(e) In preliminarily authorizing the Project and the issuance of the Bonds, the County's purpose is and the effect thereof will be to promote the public welfare of the County and its residents by preserving and creating jobs and promoting economic recovery and assisting those most impacted by the recession in a recovery zone.

(f) The undertaking of the Project and the issuance of the Bonds to finance a portion of the costs thereof will be in the public interest.

(g) The County is authorized to designate the Bonds as a recovery zone facility bond under Section 1400U-3 of the Code and Section 90-5-103(6) of the Act.

(h) The Project complies with the requirements of Resolution No. 2009-145.

Section 3. Approval. Subject to Section 7 below, the Board hereby approves the Project and the issuance of the Bonds in the maximum approximate aggregate principal amount of \$631,000 to finance a portion of the costs thereof. The Bonds shall mature over a term not to exceed 40 years and shall bear interest at a rate or rates allowable by law and contain such other terms and provisions as shall be agreed upon by the Board, the Borrower and the purchaser of the Bonds. The Bonds shall be designated "recovery zone facility bonds" under Section 1400U-3 of the Code. The Borrower shall, pursuant to a Loan Agreement, agree to renovate, construct, furnish and equip the Project; to operate and maintain the Project and keep it properly insured; to pay all assessments, if any, on or against the Project; and to make loan payments sufficient to pay the principal of, premium, if any, and interest on the Bonds, all costs and expenses of the County and any trustee in connection with the Project. There shall be a pledge and assignment of certain of the County's interests in the Loan Agreement under an Assignment.

Section 4. Allocation. The Board hereby allocates \$631,000 of the County's authority to issue recovery zone facility bonds to the Project.

Section 5. Bond Counsel. Dorsey & Whitney LLP, as bond counsel, is authorized in cooperation with the County's Chief Financial Officer, the Borrower and the underwriter of the Bonds to prepare forms of a loan agreement, an assignment, a mortgage or trust indenture, a security agreement, a disbursing agreement, an employment preference and prevailing wage agreement, the Bonds and any other documents necessary to provide for financing of the Project for review and approval of the final terms and conditions thereof by this Board.

Section 6. Costs. The Borrower will pay, or upon demand reimburse the County for payment of, any and all costs incurred by the County in connection with the Project and the issuance of the Bonds, and all fees of the County, including those associated with recovery zone bonds, whether or not the Project is carried to completion and whether or not the Bonds are issued.

Section 7. Commitment Conditional. The adoption of this resolution does not constitute a guarantee or a firm commitment that the County will issue the Bonds as requested by the Borrower. The County retains the right, in its sole discretion, to withdraw from participation and accordingly not issue the Bonds should the Board, at any time prior to the issuance thereof, determine that it is in the best interests of the County not to issue the Bonds, should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents for the transaction, or should the County fail to maintain sufficient allocation of recovery zone facility bonding authority in respect of the Project, or the Project not satisfying recovery zone bonding conditions. Financing the Project with proceeds of the Bonds will be contingent upon the County and other parties to the transaction, including the purchaser of the Bonds, the Borrower, and federal agencies, coming to agreement on the terms and conditions of the transaction.

Section 8. Effective Date. This Resolution shall become effective upon passage.

PASSED AND ADOPTED by the Missoula County Board of County Commissioners on May 19, 2010.

MISSOULA COUNTY, MONTANA

(SEAL)

Chair of the Board of County Commissioners

ATTEST:

County Clerk and Recorder/Treasurer

NOTICE OF HEARING

MISSOULA COUNTY, MONTANA

NOTICE IS HEREBY GIVEN that the Board of Commissioners (the "Board") of Missoula County, Montana (the "County") will hold a public hearing on May 19, 2010, at 1:30 p.m., Mountain Time, in Room 201, Second Floor of the Missoula County Courthouse Annex, 200 West Broadway, Missoula, Montana, for the purpose of conducting a public hearing on a proposal that the County issue revenue bonds (the "Bonds") under Montana Code Annotated Title 90, Chapter 5, Part 1, as amended (the "Act"), and designate them as recovery zone facility bonds under the Internal Revenue Code.

The Bonds would be issued on behalf of Craig A. Langel (the "Applicant") in order to finance a portion of the costs of purchasing 50% of the assets of Radio Way LLC, a Montana limited liability company, consisting of a 6,000 square feet office building located at 2700 Radio Way in the City of Missoula, Montana and remodeling, renovating, furnishing and equipping the building (the "Project") and to pay certain costs of issuance of the Bonds. The Project is expected to cost approximately \$1,225,000. The Project will be owned by the Applicant or a legal entity to be formed under Montana law comprised of the Applicant (the "Borrower"). The maximum aggregate principal amount of the proposed Bond issuance is \$631,000.

The Bonds will be secured by a pledge of the revenues to be derived by the County from a loan agreement with the Borrower and by such other security devices, if any, as may be deemed advantageous, including a mortgage or trust indenture on the Project. The Bonds will be a special, limited obligation of the County, and the Bonds and interest thereon will be payable solely from the revenues of the Borrower pledged to the payment thereof. The holder of the Bonds will never have the right to compel any exercise of the taxing power of the County to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the County except money payable by the Borrower to the County and pledged to the payment of the Bonds.

Any interested persons may appear and will be heard at the public hearing at the time and place stated above or may file written comments with the County Clerk and Recorder/Treasurer prior to the date of such hearing. Further information regarding the proposal is on file and available for public inspection in the office of the County Clerk and Recorder/Treasurer.

For additional information on the proposed resolution or Bonds, contact Andrew Czorny, Chief Financial Officer, or Dale Bickell, Chief Administrative Officer, Missoula County, 200 W. Broadway, Missoula, MT 59802 or by calling 406-721-5700.

Dated: April 20, 2010.

BY ORDER OF THE BOARD OF COMMISSIONERS
OF MISSOULA COUNTY, MONTANA

PUBLICATION DATES: APRIL 29, 2010, MAY 6, 2010, AND MAY 13, 2010