

RESOLUTION NO. _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS SUBMITTING TO THE QUALIFIED ELECTORS OF LEWIS AND CLARK COUNTY, MONTANA, THE QUESTION OF ISSUING GENERAL OBLIGATION BONDS IN THE AMOUNT OF UP TO TEN MILLION AND NO/100 DOLLARS (\$10,000,000.00) FOR THE PURPOSE OF PRESERVING OPEN-SPACE LANDS IN THE COUNTY, INCLUDING WORKING LANDS AND LAND FOR PROTECTING WATER AND WILDLIFE, BY PROVIDING FUNDS TO ACQUIRE CONSERVATION EASEMENTS OR OTHER PROPERTY INTERESTS FROM WILLING SELLERS AND TO PAY COSTS ASSOCIATED WITH THE SALE AND ISSUANCE OF BONDS, FOR ANY ONE OR MORE OF THE FOLLOWING REASONS: PROTECTING DRINKING WATER SOURCES AND GROUND WATER QUALITY; PROTECTING WATER QUALITY IN AND ALONG RIVERS AND STREAMS; CONSERVING WORKING FARM, RANCH, AND FOREST LANDS; PROTECTING WILDLIFE AREAS; PRESERVING OPEN LANDS AND NATURAL AREAS; PROVIDING FOR RECREATION; AND MANAGING GROWTH AND DEVELOPMENT, AND, IF THE BONDS ARE AUTHORIZED AT THE ELECTION, PROVIDING FOR THE CREATION OF A CITIZENS ADVISORY COMMITTEE CHARGED WITH MAKING RECOMMENDATIONS ON THE EXPENDITURE OF BOND FUNDS TO THE BOARD OF COUNTY COMMISSIONERS, SUBJECT TO THE TERMS AND CONDITIONS SET FORTH HEREIN

RECITALS

WHEREAS, a county as a public body is authorized pursuant to Section 76-6-109, M.C.A., to issue and sell general obligation bonds in the manner and within the limitations prescribed by applicable laws of Montana for the purpose of acquiring open-space land and other property consistent with the provisions of Title 76, Chapter 6, Part 1, M.C.A. (the "Act");

WHEREAS, Section 76-6-104, M.C.A., defines open-space land as any land that is provided or preserved for: park and recreational purposes; conservation of land or other natural resources; historic or scenic purposes; or assisting in the shaping of the character, direction, and timing of community development;

WHEREAS, a county is authorized pursuant to Section 7-7-2203, M.C.A., to issue general obligation bonds pledging the general credit of the county for that purpose upon approval of the electorate of the county, provided that such indebtedness and all other indebtedness of the county does not exceed 2.50% of the total assessed value of taxable property within the county, as ascertained by the last assessment for state and county taxes;

WHEREAS, a board of county commissioners is authorized pursuant to Section 7-7-2223, M.C.A., to call a bond election by adopting a resolution to that effect;

WHEREAS, the Heritage Land Working Group, a grassroots group formed to identify heritage lands of the nature described in this resolution and to make recommendations to the Board (as hereinafter defined) regarding such lands, has requested that the Board of County Commissioners (the "Board") of Lewis and Clark County, Montana (the "County") put to a vote the question of whether the Board shall be authorized to issue general obligation bonds in an amount of up to \$10,000,000, for the purpose of preserving open-space lands in the County, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers and to pay costs associated with the sale and issuance of bonds, for any one or more of the following reasons: protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas; providing for recreation; and managing growth and development, and, if the bonds are authorized at the election, by providing for the creation of a citizens advisory committee charged with making recommendations on the expenditure of bond funds to the Board;

WHEREAS, the Board has requested technical assistance from the Trust for Public Land regarding developing a program to protect farms and ranches in the County and preparation of ballot language to enable the funding and acquisition of conservation easements;

WHEREAS, the Board has determined that the issuance of general obligation bonds in the amount of \$10,000,000 will not cause the County to exceed its indebtedness limitation, which as currently calculated is \$74,366,988 (2.5% X \$2,974,679,529);

WHEREAS, the Board has determined there should be submitted to the electors of the County qualified to vote at bond elections the questions of whether the Board shall be authorized to issue and sell general obligation bonds of the County in an amount not to exceed \$10,000,000, for the purpose of preserving open-space lands in the County, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers and to pay costs associated with the sale and issuance of bonds, for any one or more of the following reasons: protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas; providing for recreation; and managing growth and development, and, if the bonds are authorized at the election, by providing for the creation of a citizens advisory committee charged with making recommendations on the expenditure of bond funds to the Board; and

WHEREAS, it is the judgment and determination of the Board that such bonds will be payable during a term not to exceed twenty (20) years and shall be redeemable on any date after one-half of the term for which they are issued.

NOW, THEREFORE, BE IT RESOLVED By the Board of the County as follows:

1. Calling of the Election. The Board of the County hereby calls and directs a special County election to be held on November 4, 2008, in conjunction with the general election, for the purpose of voting on the following question:

Shall the Board of County Commissioners (the "Board") of Lewis and Clark County, Montana (the "County") be authorized to issue and sell general obligation bonds of the County, in one or more series in the aggregate amount of up to Ten Million and No/100 Dollars (\$10,000,000.00), bearing interest at rates to be determined by the Board at a competitive sale, payable semiannually during a term not to exceed twenty (20) years and redeemable on any date after one-half of their term, for the purpose of preserving open-space lands in the County, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers and to pay costs associated with the sale and issuance of bonds, for any one or more of the following reasons: protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas; providing for recreation; and managing growth and development?

If the election on the bonds should pass, the County shall create a citizens advisory committee charged with making recommendations on the expenditure of bond funds to the Board.

2. Conduct of Election. All qualified electors of the County shall be entitled to vote at the bond election. The Lewis and Clark County Election Administrator is hereby requested and authorized to give proper notice of the close of registration and thereafter prepare printed lists of the electors in the County entitled to vote in the election in the County and to conduct the election in the form and manner prescribed by law. The Election Administrator shall prepare the ballot and arrange for the printing of the ballot.

3. Notice of Election. The Election Administrator is hereby authorized and requested to cause notice of the call and holding of the election to be given by publishing notice at least once a week for the three consecutive weeks before the election in the *Independent Record*, a newspaper of general circulation in the County. The notice of election as published shall read substantially as follows:

NOTICE OF LEWIS AND CLARK COUNTY
OPEN-SPACE LANDS: WORKING LANDS AND LAND FOR WATER AND WILDLIFE
BOND ELECTION

Lewis and Clark County, Montana
November 4, 2008

NOTICE IS HEREBY GIVEN by the Board of County Commissioners (the "Board") of Lewis and Clark County, Montana (the "County"), that pursuant to a certain resolution duly adopted at a regular meeting of the Board on August 12, 2008, a special election of the registered voters of the County will be held on November 4, 2008, in conjunction with the general election, for the purpose of voting on the following question:

Shall the Board of County Commissioners (the "Board") of Lewis and Clark County, Montana (the "County") be authorized to issue and sell general obligation bonds of the County, in one or more series in the aggregate amount of up to Ten Million and No/100 Dollars (\$10,000,000.00), bearing interest at rates to be determined by the Board at a competitive sale, payable semiannually during a term not to exceed twenty (20) years and redeemable on any date after one-half of their term, for the purpose of preserving open-space lands in the County, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers and to pay costs associated with the sale and issuance of bonds, for any one or more of the following reasons: protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas; providing for recreation; and managing growth and development?

If the election on the bonds should pass, the County shall create a citizens advisory committee charged with making recommendations on the expenditure of bond funds to the Board.

The estimated annual tax upon the issuance of the full \$10,000,000 in bonds, assuming a 5.50% interest rate per annum on the bonds for 20 years and based on the current assessed value of property in the County that would be subject to taxation to pay the debt service on the bonds, is estimated to be \$16.77 for a home with an assessed value of \$100,000 and \$33.54 for a home with an assessed value of \$200,000.

The polling places for the election shall be the normal polling places for County residents during the general election and polls shall be open between the hours of 7:00 a.m. and 8:00 p.m.

Absentee ballots may be obtained at the office of the Lewis and Clark County Election Administrator at 316 North Park Avenue, Helena, Montana, from October 6, 2008 until 12:00 noon, November 3, 2008.

County Clerk and Recorder

Publish: September 18, 2008, September 25, 2008, and October 2, 2008

4. Ballots. The Election Administrator is hereby requested to prepare suitable ballots for use at the election at the polling places, together with the precinct lists.

5. Form of Ballot. The ballot shall be printed in substantially the following form:

OFFICIAL BALLOT
LEWIS AND CLARK COUNTY, MONTANA
OPEN-SPACE LANDS: WORKING LANDS AND LAND FOR WATER AND WILDLIFE
BOND ELECTION
NOVEMBER 4, 2008

INSTRUCTIONS TO VOTERS: Make an X or similar mark in the vacant square before the words "BONDS--YES" if you wish to vote for the bond issue; if you are opposed to the bond issue, make an X or similar mark in the square before the words "BONDS—NO."

Shall the Board of County Commissioners (the "Board") of Lewis and Clark County, Montana (the "County") be authorized to issue and sell general obligation bonds of the County, in one or more series in the aggregate amount of up to Ten Million and No/100 Dollars (\$10,000,000.00), bearing interest at rates to be determined by the Board at a competitive sale, payable semiannually during a term not to exceed twenty (20) years and redeemable on any date after one-half of their term, for the purpose of preserving open-space lands in the County, including working lands and land for protecting water and wildlife, by providing funds to acquire conservation easements or other property interests from willing sellers and to pay costs associated with the sale and issuance of bonds, for any one or more of the following reasons: protecting drinking water sources and ground water quality; protecting water quality in and along rivers and streams; conserving working farm, ranch and forest lands; protecting wildlife areas; preserving open lands and natural areas; providing for recreation; and managing growth and development?

If the election on the bonds should pass, the County shall create a citizens advisory committee charged with making recommendations on the expenditure of bond funds to the Board.

The estimated annual tax upon the issuance of the full \$10,000,000 in bonds, assuming a 5.50% interest rate per annum on the bonds for 20 years and based on the current assessed value of property in the County that would be subject to taxation to pay the debt service on the bonds, is estimated to be \$16.77 for a home with an assessed value of \$100,000 and \$33.54 for a home with an assessed value of \$200,000.

BONDS — YES

BONDS — NO

6. Copy of Resolution. A copy of this resolution will be provided to the Election Administrator as soon as possible after its adoption and approval in order to inform him/her of the details of the election and the pertinent requests and authorizations as to the conduct of the election.

7. Land and Water Bond Acquisition Account; Use of Bond Proceeds. If bonds are issued for the purpose set forth in this resolution, the County will deposit the proceeds of such bonds, exclusive of accrued interest and underwriter's compensation, in the Land and Water Bond Acquisition Account, and used for the authorized purposes, consistent with the requirements in Section 8 hereof, as may be further augmented by a subsequent resolution or ordinance of the Board.

8. Expenditure of Funds in Land and Water Bond Acquisition Account. With respect to the expenditure of funds in the Land and Water Bond Acquisition Account, the Board hereby agrees to take into account the recommendations of the citizens advisory committee created by the County for the purpose of providing advice with respect to open space matters and to await public comment prior to expending funds from the Land and Water Bond Acquisition Account.

9. Reimbursement Expenditures.

(a) 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.

(b) 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 a project within the scope of this resolution have been paid by the County before the date 60 days before the date of adoption of this resolution.

(c) The County reasonably expects to reimburse the expenditures made for costs

of such a project out of the proceeds of bonds in an estimated maximum aggregate principal amount of up to \$10,000,000 after the date of payment of all or a portion of the costs of such a project. All reimbursed expenditures shall be capital expenditures, a cost of issuance of the bonds or other expenditures eligible for reimbursement under Section 1.150-2(d)(3) of the Regulations.

(d) 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 such a project, 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.

(e) 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 project. Each allocation shall be evidenced by an entry on the official books and records of the County maintained for the bonds or the project and shall specifically identify the actual original expenditure being reimbursed.

PASSED AND ADOPTED by the Board of County Commissioners of Lewis and Clark County, Montana, this 12th day of August, 2008.

BOARD OF COUNTY COMMISSIONERS
Lewis and Clark County, Montana

By _____
Chairman

By _____
Member

By _____
Member

ATTEST:

By _____
Clerk and Recorder