

RESOLUTION #22-11-02

RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF A \$1,700,000 GENERAL OBLIGATION PROMISSORY NOTE, SERIES 2022, OF BUFFALO COUNTY, WISCONSIN; ESTABLISHING THE TERMS AND CONDITIONS THEREFOR; DIRECTING ITS EXECUTION AND DELIVERY; CREATING A DEBT SERVICE ACCOUNT THEREFOR AND AWARDING THE SALE THEREOF

BE IT RESOLVED, by the Board of Supervisors (the “Board”) of Buffalo County, Wisconsin (the “County”), as follows:

Section 1. Note Purpose, Authorization, and Award.

1.01 Under and pursuant to the provisions of Wisconsin Statutes, Chapter 67 and Sections 67.045 and 67.12(12), the County is authorized to issue and sell its general obligation promissory notes for any public purpose.

1.02 The Board adopted an initial resolution on October 24, 2022 (the “Initial Resolution”) calling for the County to borrow an amount not to exceed \$1,700,000 by issuing general obligation promissory notes for the public purpose of financing a portion of the County’s 2023 through 2024 Road Improvement Program and related equipment purchases (the “Project”).

1.03 The Board hereby directs the issuance and sale of its \$1,700,000 General Obligation Promissory Note, Series 2022 (the “Note”), for the purpose of providing funds to finance the Project.

1.04 The County has solicited bids for the sale of the Note and received the best bid from Zions Bancorporation, National Association, located in Salt Lake City, Utah (the “Purchaser”), to purchase the Note and to make the advance to the County under the Note pursuant to the Purchase and Loan Agreement, as hereinafter defined, to pay or provide for costs of the Project, and upon condition that the Note matures and bears interest at the times and annual rate set forth in Section 2. The County, after due consideration, finds such offer reasonable and proper and the offer of the Purchaser is hereby accepted. All actions of the Chairperson, the County Clerk and the Administrative Coordinator, and PMA Securities, LLC, independent municipal advisor to the County, taken with regard to the sale of the Note are hereby ratified and approved.

Section 2. Terms and Form of the Note.

2.01 The Note shall be a single note, dated as of the date of delivery, in fully registered form, in the amount of \$1,700,000, with principal payable in annual installments on September 1 of each year commencing with the initial principal payment on September 1, 2023 in the principal installments and in the years stated below:

| Principal Payment Date (September 1) | Principal Installments | Principal Payment Date (September 1) | Principal Installments |
|--------------------------------------|------------------------|--------------------------------------|------------------------|
| 2023 | \$140,000 | 2028 | \$130,000 |
| 2024 | \$100,000 | 2029 | \$100,000 |
| 2025 | \$115,000 | 2030 | \$330,000 |
| 2026 | \$120,000 | 2031 | \$290,000 |
| 2027 | \$125,000 | 2032 | \$250,000 |

The Note shall bear interest on the unpaid principal balance at the rate of 4.10% per annum. Interest shall be payable semiannually on March 1 and September 1 of each year (each herein referred to as an "Interest Payment Date") commencing with the initial interest payment on September 1, 2023. Payments shall be applied first to interest due through the stated principal payment date set forth above on the unpaid principal balance and thereafter to reduction of principal. Delinquent payments, if any, shall be applied by the registered holder in the following sequence: (1) billed delinquent interest, (2) past-due interest installments, (3) past-due principal installments, (4) interest installments due, and (5) principal installments due.

2.02 The Note is prepayable on any date, in whole or in part, at par plus accrued interest to the date of redemption with 30-days' notice to Purchaser. Partial prepayments shall be applied to the last maturity of the Note which is outstanding at the time of prepayment.

2.03 The Board hereby appoints the County Clerk as registrar and transfer agent for the Note (such officer or successor thereof is herein referred to as the "Note Registrar").

2.04 The Note shall bear interest at the annual rate stated therefor in Section 2.01. The County Treasurer shall make all interest payments with respect to the Note by check or draft mailed to the registered owner of the Note shown on the bond registration records maintained by the Note Registrar at the close of business on the 15th day (whether or not on a business day) of the month next preceding the Interest Payment Date at such owner's address shown on such bond registration records.

2.05 A. The Note shall be prepared for execution in accordance with the approved form and shall be signed by the manual signature of the Chairperson and attested by the manual signature of the County Clerk. In case any officer whose signature shall appear on the Note shall cease to be an officer before delivery of the Note, such signature shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until delivery.

B. The County Clerk is authorized and directed to obtain a copy of the proposed approving legal opinion of Fryberger, Buchanan, Smith & Frederick, P.A., Duluth, Minnesota, which is to be complete except as to dating thereof and cause the opinion to be attached to the Note. The County Clerk is authorized and directed to file the opinion in the County offices.

2.06 A. The County shall cause to be kept at the principal corporate office of the Note Registrar a note register in which, subject to such reasonable regulations as the Note Registrar may prescribe, the County shall provide for the registration of the Note and the registration of transfers of the Note entitled to be registered or transferred as herein provided. In the event of the resignation or removal of the Note Registrar or its incapability of acting as such, the Note registration records shall be maintained at the office of the successor Note Registrar as may be appointed by the Board.

B. Upon surrender for transfer of the Note at the principal corporate office of the Note Registrar, the County shall execute and the Note Registrar shall authenticate and deliver, in the names(s) of the designated transferee(s), one new note of a like aggregate principal amount, as requested by the transferor.

C. A Note surrendered upon the exchange provided for in this Resolution shall be promptly cancelled by the Note Registrar and thereafter disposed of as directed by the Board.

D. A Note issued in exchange for or upon transfer of the Note shall be a valid obligation of the County evidencing the same debt and entitled to the same benefits under this Resolution as the Note surrendered for such exchange or transfer.

E. The Note presented for a transfer or exchange shall (if so required by the County or the Note Registrar) be duly endorsed or be accompanied by a written instrument of transfer, in form satisfactory to the County and the Note Registrar, duly executed by the registered owner thereof or the owner's attorney duly authorized in writing.

F. The County may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with the transfer or exchange of the Note, other than exchange expressly provided in this Resolution to be made, without expense or without charge to the registered owner.

G. If the Note becomes mutilated or is destroyed, stolen or lost, the Note Registrar will deliver a new Note of like amount, number, maturity dates and tenor in exchange and substitution for and upon cancellation of the mutilated Note or in lieu of and in substitution for the Note destroyed, stolen or lost, upon the payment of the reasonable expenses and charges of the Note Registrar in connection therewith; and, in the case of the Note being destroyed, stolen or lost, upon filing with the Note Registrar and the County of evidence satisfactory to them that the Note was destroyed, stolen or lost, and of the ownership thereof, and upon furnishing to the Note Registrar of an appropriate note or indemnity in form, substance and amount satisfactory to it and as provided by law, in which both the County and the Note Registrar must be named as obligees. The Note so surrendered to the Note Registrar will be cancelled by the Note Registrar and evidence of such cancellation must be given to the County. If the mutilated, destroyed, stolen or lost Note has already matured or been called for redemption in accordance with its terms, it is not necessary to issue a new Note prior to payment.

2.07 The Note delivered upon transfer of or in exchange for or in lieu of any other Note shall carry all of the rights to interest, accrued and unpaid and to accrue, which are carried by such other Note.

2.08 The principal of and interest on the Note shall be payable by the Note Registrar in such funds as are legal tender for the payment of debts due the United States of America. The County shall pay the reasonable and customary charges of the Note Registrar for the disbursement of principal and interest.

2.09 Delivery of the Note and payment of the initial advance of the purchase price under the Note shall be made at a place mutually satisfactory to the County and the Purchaser. A typewritten and executed Note shall be furnished by the County without cost to the Purchaser. The Note, when prepared in accordance with this Resolution and executed, shall be delivered by or under the direction of the County Clerk to the Purchaser upon receipt of the purchase price or initial advance plus accrued interest.

Section 3. Form of the Note.

3.01 The Note shall be typewritten or printed in substantially the following form:

UNITED STATES OF AMERICA
STATE OF WISCONSIN
BUFFALO COUNTY

R-1

\$1,700,000

GENERAL OBLIGATION PROMISSORY NOTE, SERIES 2022

| <u>Rate</u> | <u>Date of Original Issue</u> | <u>Final Maturity Date</u> |
|-------------|-------------------------------|----------------------------|
| 4.10% | December 1, 2022 | September 1, 2032 |

REGISTERED OWNER: ZIONS BANCORPORATION, NATIONAL ASSOCIATION

Buffalo County, Wisconsin (the “County”), for value received, promises to pay to the registered owner specified above (the “Holder”), or registered assigns, the principal sum of One Million Seven Hundred Thousand Dollars (\$1,700,000) payable in annual installments on the following Principal Payment Dates and in the following principal installments:

| Principal Payment Date (September 1) | Principal Installments | Principal Payment Date (September 1) | Principal Installments |
|--------------------------------------|------------------------|--------------------------------------|------------------------|
| 2023 | \$140,000 | 2028 | \$130,000 |
| 2024 | \$100,000 | 2029 | \$100,000 |
| 2025 | \$115,000 | 2030 | \$330,000 |
| 2026 | \$120,000 | 2031 | \$290,000 |
| 2027 | \$125,000 | 2032 | \$250,000 |

together with interest on the outstanding principal amount from the date hereof or the most recent Principal Payment Date to which interest has been paid, at a rate of 4.10% per annum, calculated on the basis of a 360-day year of twelve 30-day months and will be rounded pursuant to the rules of the Municipal Securities Rulemaking Board, such interest being payable on March 1 and September 1 of each year (each referred to herein as an “Interest Payment Date”), with the first interest being payable on September 1, 2023. Both principal hereof and interest hereon are payable in lawful money of the United States of America by check or draft from the office of the County Treasurer. The County Treasurer shall make all interest payments with respect to this Note directly to the registered owner hereof shown on the bond registration records maintained on behalf of the County by the County Clerk at the close of business on the 15th day of the month next preceding the Interest Payment Date (whether or not a business day) at such owner’s address shown on said bond registration records, without, except for payment of the final principal installment on the Note, the presentation or surrender of this Note, and all such payments shall discharge the obligation of the County to the extent of the payments so made. Payment of the September 1, 2032 principal installment shall be made when due upon presentation and surrender of this Note to the County Clerk. For the prompt and full payment of such principal and interest as they become due, the full faith and credit and resources of the County are irrevocably pledged.

The principal amount evidenced by this Note shall be drawn upon by the County in accordance with a Purchase and Loan Agreement between the County and Zions Bancorporation, National Association, dated as of the date hereof.

The principal of and interest on the Note are payable in such funds as are legal tender for payment of debts due the United States of America. Payments shall be applied first to interest due through the stated principal payment date set forth above on the unpaid principal balance and thereafter to reduction of principal. Delinquent payments, if any, shall be applied by the Holder in the following sequence: (1) billed delinquent interest, (2) past-due interest installments, (3) past-due principal installments, (4) interest installments due and (5) principal installments due.

This Note is issued by the County in the amount of \$1,700,000 pursuant to the authority contained in Wisconsin Statutes, Chapter 67, and Sections 67.045 and 67.12(12), and all other laws thereunto enabling, and pursuant to an authorizing resolution adopted by the governing body of the County on November 15, 2022 (the “Resolution”), for the public purpose of financing a portion of the County’s 2023 through 2024 Road Improvement Program and related equipment purchases. The Note is payable from the Series 2022 Promissory Note Debt Service Account in the County’s Debt Service Fund and a direct annual ad valorem tax has been levied upon all of the

taxable property within the County, as set forth in the Resolution to which reference is made for a full statement of rights and powers thereby conferred.

This Note has been designated by the County as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

The Note is prepayable on any date, in whole or in part, at par plus accrued interest to the date of redemption with 30-days' notice to Purchaser. Partial prepayments shall be applied to the last maturity of the Note which is outstanding at the time of prepayment.

The Note is issued as a fully registered note without coupons, in the denomination of \$1,700,000. The County will, at the request of the registered owner, issue one new fully registered note in the name of the registered owner in the aggregate principal amount equal to the unpaid principal balance of the Note, all of like tenor except as to number and principal amount. This Note is transferable by the registered owner hereof upon surrender of this Note for transfer at the principal office of the Note Registrar, duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Note Registrar and executed by the registered owner hereof or the owner's attorney duly authorized in writing. Thereupon the County shall execute and the Note Registrar shall authenticate and deliver, in exchange for this Note, one new fully registered note in the name of the transferee of an authorized denomination, in an aggregate principal amount equal to the unpaid principal amount of this Note, of the same maturity, and bearing interest at the same rate.

IT IS CERTIFIED AND RECITED that all acts and conditions required by the Constitution and laws of the State of Wisconsin to be done and to exist precedent to and in the issuance of this Note, in order to make it a valid and binding general obligation of the County in accordance with its terms, have been done and do exist in form, time and manner as so required; that all taxable property within the limits of the County is subject to the levy of ad valorem taxes to the extent needed to pay the principal hereof and the interest hereon when due, without limitation as to rate or amount and that the issuance of this Note does not cause the indebtedness of the County to exceed any constitutional or statutory limitation.

IN WITNESS WHEREOF, Buffalo County, Wisconsin, by its governing body, has caused this Note to be executed in its name by the signatures of the Chairperson and the County Clerk and its corporate seal or a true facsimile thereof to be impressed or imprinted hereon, all as of the date of original issue specified above.

ATTEST:


County Clerk


Chairperson

(SEAL)

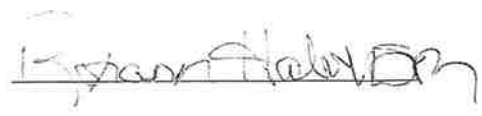
Date of Execution: December 1, 2022

REGISTRATION CERTIFICATE

This Note must be registered as to both principal and interest in the name of the owner on the books to be kept by the County Clerk. No transfer of this Note shall be valid unless made on said books by the registered owner or the owner's attorney thereunto duly authorized and similarly noted on the registration books. The ownership of

the unpaid principal balance of this Note and the interest accruing thereon is registered on the books of the County Clerk in the name of the registered owner last noted below.

Date
12/1/2022
Registered Owner
Zions Bancorporation, National
Association
1 South Main, 18th Floor
Salt Lake City, UT 84133
Federal Taxpayer I.D. No.: 87-
0189025

Signature of County Clerk


ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns, and transfers unto _____

(Name and Address of Assignee)

_____ Social Security or other
_____ Identifying Number of
_____ Assignee

the within Note and all rights thereunder and does hereby irrevocably constitute and appoint _____ attorney to transfer the said Note on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: The signature of this assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatsoever.

Signature Guaranteed:

(Bank, Trust Company, member of
National Securities Exchange)

EXHIBIT A TO NOTE

| Amount of Disbursement | Date of Disbursement |
|------------------------|----------------------|
| \$1,700,000 | December 1, 2022 |

Section 4. Borrowed Money Fund; Debt Service Fund.

4.01 A The Series 2022 Borrowed Money Fund. There is hereby created a separate and special fund designated as the Series 2022 Borrowed Money Fund (the “Borrowed Money Fund”), which shall be used solely for payment of costs of constructing the Project and to pay the costs of issuing the Note. Proceeds of the Note shall be drawn under the Purchase and Loan Agreement and credited to the Borrowed Money Fund. The monies in said fund may from time to time be invested as provided in Section 66.0603, Wisconsin Statutes. Upon completion of such capital improvements as described in Section 1.02 hereof, and after payment in full of all costs thereof, any balance on hand in the Borrowed Money Fund shall be credited to the Debt Service Account.

B. Debt Service Fund. There is hereby established in the treasury of the County, if it has not already been created, a debt service fund separate and distinct from every other fund (the “Debt Service Fund”), which shall be maintained in accordance with generally accepted accounting principles. Sinking funds established for obligations previously issued by the County may be considered as separate and distinct accounts within the Debt Service Fund. There shall be maintained in the Debt Service Fund a separate account, to be designated the Series 2022 Promissory Note Debt Service Account.

C. The Series 2022 Promissory Note Debt Service Account. To the Series 2022 Promissory Note Debt Service Account (the “Debt Service Account”) there is hereby pledged and irrevocably appropriated and there shall be credited: (1) any collections of all taxes levied herein for the payment of the Note and interest thereon; (2) all investment earnings on funds in the Debt Service Account; (3) accrued interest, if any, received upon delivery of the Note; (4) surplus monies in the Borrowed Money Fund as specified in Section 4.01A hereof; (5) capitalized interest from the proceeds of the Note in the amount of \$0.00; and (6) any and all other monies which are properly available and are appropriated by the County to the Debt Service Account including further deposits as may be required by Section 67.11 of Wisconsin Statutes. The amount of any surplus remaining in the Debt Service Account when the Note and interest thereon are paid shall be used to reduce the amount of taxes levied herein. No money shall be withdrawn from the Debt Service Account and appropriated for any purpose other than the payment of principal of and interest on the Note until all such principal and interest has been paid in full and cancelled; provided (i) the funds to provide for each payment of principal of and interest on the Note prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due; and (ii) any funds over and above the amount of such principal and interest payments on the Note may be used to reduce the next succeeding tax levy, or may, at the option of the County, be invested by purchasing the Note as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, in interest bearing obligations of the United States of America, or in other obligations of the County, which investments shall continue to be a part of the Debt Service Account. When all of the Note has been paid in full and cancelled, and all permitted investments disposed of, any money remaining in the Debt Service Account shall be deposited in the general fund of the County, unless the Board directs otherwise.

D. Draws on Note. On the date of issuance of this Note, the County shall draw under the Purchase and Loan Agreement the entire principal amount of \$1,700,000.

4.02 Debt Service Levy.

A. For the purpose of paying the principal of and interest on the Note as the same become due, the full faith, credit and resources of the County are hereby irrevocably pledged and there hereby is levied on all the taxable property in the County a direct, annual, irrevocable tax in such years and in such amounts as are sufficient to meet such principal and interest payments when due; said tax is hereby levied in the years and in the amounts shown on Exhibit A hereto, which is incorporated by reference as though fully set forth herein.

B. The County shall be and continue to be without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Note, said tax shall be, from year to year, carried into the tax rolls of the County and collected as other taxes are collected, provided that the amount of tax carried into said tax rolls may be reduced in any year by the amount of any surplus money in the Debt Service Account created in Section 4.01C hereof.

4.03 Payment of Costs of Issuance. The County agrees to pay the costs of issuance of the Note as set forth in the officers' certificate on the Closing Date.

Section 5. Certificate of Proceedings.

5.01 The officers of the County are authorized and directed to prepare and furnish to the Purchaser and to bond counsel certified copies of all proceedings and records of the County relating to the authorization and issuance of the Note and other affidavits and certificates as may reasonably be requested to show the facts relating to the legality and marketability of the Note as such facts appear from the official books and records of the officers' custody or otherwise known to them. All of such certified copies, certificates and affidavits, including any heretofore furnished, constitute representations of the County as to the correctness of facts recited therein and the actions stated therein to have been taken.

5.02 The County Clerk shall provide and keep a separate record book and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Note.

5.03 In the event of the absence or disability of the Chairperson or County Clerk, such officers of the County or members of the Board as in the opinion of the County's attorney may act in their behalf shall, without further act or authorization, execute and deliver the Note, and do all things and execute all instruments and documents required to be done or executed by such absent or disabled officers.

Section 6. Tax Covenants.

6.01 A. The County hereby covenants not to use the proceeds of the Note, or to cause or permit them to be used, in such a manner as to cause the Note to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code.

B. The County covenants and agrees to comply with requirements under the Code necessary to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Note, including without limitation (1) requirements relating to temporary periods for investment, (2) limitation on amounts invested at a yield greater than the yield on the Note, and (3) the rebate of excess investment earnings to the United States if the gross proceeds of the Note are not expended for the purposes of the Note in accordance with the requirements of the small-issuer exception and the regulations thereunder.

C. For purposes of qualifying for the small-issuer exception to the federal arbitrage rebate requirements, the County finds, determines and declares:

- (1) the County is a governmental unit with general taxing powers;
- (2) the Note is not a “private activity bond” as defined in Section 141 of the Code;
- (3) 95% or more of the net proceeds of the Note are to be used for local governmental activities of the County;
- (4) the aggregate face amount of the tax-exempt obligations (other than private activity bonds) issued by the County during the calendar year in which the Note is issued is not reasonably expected to exceed \$5,000,000, all within the meaning of Section 148(f)(4)(D) of the Code.

D. In order to qualify the Note as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3) of the Code, the County hereby makes the following factual statements and representations:

- (1) the Note is not a “private activity bond” as defined in Section 141 of the Code;
- (2) the County hereby designates the Note as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code;
- (3) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds, treating qualified 501(c)(3) bonds as not being private activity bonds) which will be issued by the County (and all entities whose obligations will be aggregated with those of the County) during the calendar year in which the Note was issued will not exceed \$10,000,000; and
- (4) not more than \$10,000,000 of obligations issued by the County during the calendar year in which the Note was issued have been designated for the purposes of Section 265(b)(3) of the Code.

E. The County shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this section.

Section 7. Post-Issuance Compliance Policy and Procedures. The Board has previously approved a Post-Issuance Debt Compliance Policy and Post-Issuance Debt Compliance Procedures which shall apply to qualifying obligations to provide for compliance with all applicable federal regulations for tax-exempt obligations or tax-advantaged obligations (collectively, the “Policy and Procedures”). The Board hereby approves the Policy and Procedures for the Note. The County Treasurer continues to be designated to be responsible for post-issuance compliance in accordance with the Policy and Procedures.

Section 8. Purchase and Loan Agreement. The proceeds of the Note will be advanced to the County in accordance with the terms of this Resolution and with a Purchase and Loan Agreement between the County and the Purchaser (the “Purchase and Loan Agreement”). The Chairperson and the County Clerk are hereby authorized and directed to execute the Purchase and Loan Agreement substantially in the form currently on file in the office of the County, including the obligation of the County to meet the financial reporting requirements set forth in the Purchase and Loan Agreement.

Adopted: November 15, 2022.



Chairperson

Attest:



County Clerk

M:\DOCS\14241\000006\ROL\1BB645202.DOCX

EXHIBIT A

**GENERAL OBLIGATION PROMISSORY NOTE, SERIES 2022
BUFFALO COUNTY, WISCONSIN**

TAX LEVY SCHEDULE

| Levy Year/Collect Year | Tax Levy |
|-------------------------------|-----------------|
| 2022/2023 | \$192,275 |
| 2023/2024 | \$163,960 |
| 2024/2025 | \$174,860 |
| 2025/2026 | \$175,145 |
| 2026/2027 | \$175,225 |
| 2027/2028 | \$175,100 |
| 2028/2029 | \$139,770 |
| 2029/2030 | \$365,670 |
| 2030/2031 | \$312,140 |
| 2031/2032 | \$260,250 |