

RESOLUTION NO. 2012-05

Resolution authorizing and approving a Loan Agreement and providing for the issuance of a \$400,000 General Obligation County Building Improvement Note and providing for the levy of taxes to pay the same

WHEREAS, the Board of Supervisors of Clay County (the "County"), State of Iowa, has heretofore proposed to enter into a general obligation loan agreement in a principal amount not to exceed \$400,000 pursuant to the provisions of Section 331.402 of the Code of Iowa for the purpose of financing improvements to the County's Government Services Center and has published notice of the proposed action and has held a hearing thereon; and

WHEREAS, it is necessary at this time to make final provision for the approval of a General Obligation County Building Improvement Loan Agreement (the "Loan Agreement") and to make provision for the issuance of a \$400,000 General Obligation County Building Improvement Note (the "Note") in evidence of the obligation of the County under the Loan Agreement; and

WHEREAS, bids for the purchase of the Note have been received and entered in the minutes of this meeting, and the bid from Farmers Savings Bank is the best, providing the lowest interest cost to the County;

NOW, THEREFORE, Be It Resolved by the Board of Supervisors of Clay County, Iowa, as follows:

Section 1. The County hereby determines to enter into the Loan Agreement with Farmers Savings Bank, Spencer, Iowa, as lender (the "Lender"), providing for a loan to the County in the principal amount of \$400,000 for the purpose or purposes set forth in the preamble hereof.

The Chairperson and County Auditor are hereby authorized and directed to sign the Loan Agreement on behalf of the County, and the Loan Agreement is hereby approved.

Section 2. The Note is hereby authorized to be issued in the principal amount of \$400,000, and shall be dated as of the date of its delivery to the Lender and shall be payable as to both principal and interest in the manner hereinafter specified.

The County Auditor is hereby designated as the registrar and paying agent for the Note and may be hereinafter referred to as the "Registrar" or the "Paying Agent."

Principal of the Note shall bear interest until paid from the date of the Note or from the last date on which interest has been paid at the rate of 1.94% per annum. Both principal of and interest on the Note shall be payable in 9 equal annual installments in the amount of \$44,250 each, due on December 1 of each year, commencing December 1, 2012, and continuing to, and including December 1, 2020, with one final installment of all remaining principal and interest due thereon at maturity on December 1, 2021. All payments shall be applied first to the payment of interest due and next to the reduction of principal. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

Payment of both principal of and interest on the Note shall be made to the registered owner appearing on the registration books of the County at the close of business on the fifteenth day of the month next preceding the payment date and shall be paid by check or draft mailed to the registered owner at the address shown on such registration books; provided, however, that the final installment of principal and interest shall be payable only upon presentation and surrender of the Note to the Paying Agent.

The County reserves the right to prepay principal of the Note maturing in each of the years 2019 to 2021, in whole or in part, on December 1, 2018 or any date thereafter prior to and in inverse order of maturity on terms of par and accrued interest. All principal so prepaid shall cease to bear interest on the prepayment date.

The County hereby pledges the faith, credit, revenues and resources and all of the real and personal property of the County for the full and prompt payment of the principal of and interest on the Note.

The Note shall be executed on behalf of the County with the official manual or facsimile signature of the Chairperson and attested with the official manual or facsimile signature of the County Auditor and shall be a fully registered Note without interest coupons. In case any officer whose signature or the facsimile of whose signature appears on the Note shall cease to be such officer before the delivery of the Note, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The Note shall be fully registered as to principal and interest in the name of the owner on the registration books of the County kept by the Registrar, and after such registration, payment of the principal thereof and interest thereon shall be made only to the registered owner or its legal representatives or assigns. The Note shall be transferable only upon the registration books of the County upon presentation to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form thereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The record and identity of any owners of the Note shall be kept confidential as provided by Section 22.7 of the Code of Iowa.

Section 3. The Note shall be in substantially the following form:

This Note is issued pursuant to and in strict compliance with the provisions of Chapter 76 and Chapter 331 of the Code of Iowa, 2011, and all other laws amendatory thereof and supplemental thereto, and in conformity with a resolution of the Board of Supervisors authorizing and approving the Loan Agreement and providing for the issuance and securing the payment of this Note (the "Resolution"), and reference is hereby made to the Resolution and the Loan Agreement for a more complete statement as to the source of payment of this Note and the rights of the owner of this Note.

The County reserves the right to prepay principal of this Note maturing in each of the years 2019 to 2021, in whole or in part, on December 1, 2018, or any date thereafter, prior to and in inverse order of maturity, on terms of par and accrued interest. All principal so prepaid will cease to bear interest on the prepayment date.

This Note is fully negotiable but shall be fully registered as to both principal and interest in the name of the owner on the books of the County in the office of the Registrar, after which no transfer shall be valid unless made on said books and then only upon presentation of this Note to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form hereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The County, the Registrar and the Paying Agent may deem and treat the registered owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes, and the County, the Registrar and the Paying Agent shall not be affected by any notice to the contrary.

And It Is Hereby Certified and Recited that all acts, conditions and things required by the laws and Constitution of the State of Iowa, to exist, to be had, to be done or to be performed precedent to and in the issue of this Note were and have been properly existent, had, done and performed in regular and due form and time; that provision has been made for the levy of a sufficient continuing annual tax on all the taxable property within the County for the payment of the principal of and interest on this Note as the same will respectively become due; that the faith, credit, revenues and resources and all the real and personal property of the County are irrevocably pledged for the prompt payment hereof, both principal and interest; and that the total indebtedness of the County, including this Note, does not exceed any constitutional or statutory limitations.

IN TESTIMONY WHEREOF, Clay County, Iowa, by its Board of Supervisors, has caused this Note to be executed by its Chairperson and attested by its County Auditor, on February 1, 2012.

CLAY COUNTY, IOWA

By (DO NOT SIGN)
Chairperson

Attest:

(DO NOT SIGN)
County Auditor

ABBREVIATIONS

The following abbreviations, when used in this Note, 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)

TEN ENT - as tenants by the entireties

As Custodian for _____
(Minor)

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

under Uniform Transfers to Minors Act

(State)

Additional abbreviations may also be used though not in the list above.

ASSIGNMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned assigns this Note to

(Please print or type name and address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

and does hereby irrevocably appoint _____, Attorney, to transfer this Note on the books kept for registration thereof with full power of substitution.

Dated: _____

Signature guaranteed:

NOTICE: The signature to this Assignment must correspond with the name of the registered owner as it appears on this Note in every particular, without alteration or enlargement or any change whatever.

Section 4. The Note shall be executed as herein provided as soon after the adoption of this resolution as may be possible and thereupon shall be delivered to the Registrar for registration and delivery to or upon the direction of the Lender, upon receipt of the loan proceeds, and all action heretofore taken in connection with the Loan Agreement is hereby ratified and confirmed in all respects. Any Loan Proceeds remaining after the full payment of costs shall be deposited in the Debt Service Fund and used to pay principal of and interest on the Note as the same become due. The County shall hold the Loan Proceeds in a distinct account and shall keep an accurate accounting of the investment and expenditure of such monies and any investment earnings thereon.

Section 5. For the purpose of providing for the levy and collection of a direct annual tax sufficient to pay the principal of and interest on the Note as the same become due, there is hereby ordered levied on all the taxable property in the County in each of the years while the Note is outstanding, a tax sufficient for that purpose, and in furtherance of this provision, but not in limitation thereof, there is hereby levied on all the taxable property in the County the following direct annual tax for collection in each of the following fiscal years, to wit:

For collection in the fiscal year beginning July 1, 2012,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2013,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2014,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2015,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2016,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2017,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2018,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2019,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2020,
sufficient to produce the net annual sum of \$44,250;

For collection in the fiscal year beginning July 1, 2021,
sufficient to produce the net annual sum of \$44,250.

Section 6. A certified copy of this resolution shall be filed with the County Auditor, and the County Auditor is hereby instructed to enter for collection and assess the tax hereby

authorized. When annually entering such taxes for collection, the County Auditor shall include the same as a part of the tax levy for Debt Service Fund purposes of the County and when collected, the proceeds of the taxes shall be converted into the Debt Service Fund of the County and set aside therein as a special account to be used solely and only for the payment of the principal of and interest on the Note hereby authorized and for no other purpose whatsoever.

Pursuant to the provisions of Section 76.4 of the Code of Iowa, each year while the Note remains outstanding and unpaid, any funds of the County which may lawfully be applied for such purpose, may be appropriated, budgeted and, if received, used for the payment of the principal of and interest on the Note as the same become due, and if so appropriated, the taxes for any given fiscal year as provided for in Section 5 of this Resolution, shall be reduced by the amount of such alternate funds as have been appropriated for such purpose, and evidenced in the County's budget.

Section 7. The interest or principal and both of them falling due in any year or years shall, if necessary, be paid promptly from current funds on hand in advance of taxes levied and when the taxes shall have been collected, reimbursement shall be made to such current funds to the sum thus advanced.

Section 8. It is the intention of the County that interest on the Note be and remain excluded from gross income for federal income tax purposes pursuant to the appropriate provisions of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations in effect with respect thereto (all of the foregoing herein referred to as the "Internal Revenue Code"). In furtherance thereof, the County covenants to comply with the provisions of the Internal Revenue Code as they may from time to time be in effect or amended and further covenants to comply with the applicable future laws, regulations, published rulings and court decisions as may be necessary to insure that the interest on the Note will remain excluded from gross income for federal income tax purposes. Any and all of the officers of the County are hereby authorized and directed to take any and all actions as may be necessary to comply with the covenants herein contained.

The County hereby designates the Note as a "Qualified Tax Exempt Obligation" as that term is used in Section 265(b)(3)(B) of the Internal Revenue Code.

Section 9. All resolutions or parts thereof in conflict herewith are hereby repealed to the extent of such conflict.

Passed and approved on January 10, 2012.

/s/ Del Brockshus, Chairperson

Attest: /s/Marjorie A. Pitts, County Auditor