

**RESOLUTION NO. 97-032**

**SUPERSEDING RESOLUTION NO. 96-008**

A Resolution of the Board of County Commissioners (the Board) of Missoula County, Montana (the County) Creating the Missoula Development Authority, (The Authority) Granting It Powers, and Establishing the Rules of Operation

WHEREAS, The Board of County Commissioners desires to supersede Resolution No. 96-008, dated February 7, 1996, which created the Missoula Development Authority and recreate the Authority with this resolution, and

WHEREAS, Section 7-14-1101 through 7-14-1139, MCA (the Act) authorizes a board of county commissioners to create a public body corporate and politic to exercise the powers of a port authority in accordance with the provisions of the Act, and

WHEREAS, the Board held a public hearing on the 7th day of February, 1996, notice of which was given as required in the Act, regarding the creation of such an entity in Missoula County; and

WHEREAS, Section 7-14-1104, MCA, lists among the enumerated purposes of such an entity the stimulation of commerce, the provision of maximum opportunities for employment, and the advancement of the general welfare and prosperity of the entity's jurisdiction; and

WHEREAS, the Board has determined that there exists in the County a need for the stimulation of commerce to promote and enhance the general welfare, economic development and prosperity within the County jurisdiction; and

WHEREAS, the Board desires to create an entity for the purposes specified in Section 7-14-1104, MCA, and with the powers authorized in Section 7-14-1111, MCA, subject to the limitations of this Resolution.

NOW, THEREFORE, by the authority granted by the Act, the Board resolves as follows:

Section 1. Creation. There is created in the County an entity to be known as the Missoula Development Authority, which entity shall be a public body, corporate and politic, and shall exercise the powers of a local port authority as provided herein, consistent with the Act.

Section 2. Purposes.

2.01. General Purposes. The purposes of the Authority shall be to:

- a. promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of the County and its citizens.
- b. endeavor to increase the volume of commerce within the County through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and transportation and storage facilities that promote the safe, efficient, and economical handling of commerce.

- c. cooperate and act in conjunction with other organizations, public or private, in the development of commerce, industry, manufacturing, research/development related public services, and other economic activity in the County.
- d. support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industry in the County and otherwise stimulate, assist in, and support the growth of all kinds of economic activity that will tend to promote commerce and business development, maintain the economic stability and prosperity of the County, and thus provide maximum opportunities for employment and improvement in the standard of living of its citizens.

2.02. Public Purpose. The acquisition of any land or interest in land pursuant to this resolution, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of Authority facilities, and the exercise of any powers granted to The Authority are public and governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of The Authority as provided in this, resolution, must be used for public and governmental purposes and as a matter of public necessity.

### Section 3. Powers.

3.01. General Powers. The Authority shall, subject to the limitations of this resolution, have all the powers necessary or convenient to carry out the purposes of this resolution, including but not limited to the following powers:

- a. request annually to the Board of County Commissioners, the amount of tax to be levied by the County for Authority purposes; such tax to be levied solely at the discretion of the Board of County Commissioners.
- b. sue and be sued, have a seal, and have perpetual succession;
- c. execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this resolution;
- d. plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect transportation, storage or other facilities. For such purposes the Authority may, by purchase, gift, devise, lease, or otherwise, acquire real or personal property or any interest therein, including easements.
- e. acquire, by purchase, gift, devise, lease, or otherwise, existing transportation, storage, or other facilities. However, the Authority may not acquire or take over any facility owned or controlled by another board, county, municipality, or public agency without the consent of such board, county, municipality, or public agency.
- f. Acquisition or disposition of property by the Authority is subject to approval of the Board.

3.02. Supplemental Powers. In addition to the general and special powers conferred by this Resolution, the Authority may exercise all powers incidental to the exercise of such general and special powers, subject to approval of the Board.

3.03. Authority to Enter into Contracts, Leases, and Other Arrangements. In connection with the operation of a transportation, storage or other facility owned or controlled by it, the Authority may, subject to the approval of the Board, enter into contracts, leases, and other arrangements for terms not to exceed thirty (30) years with any persons:

- a. granting the privilege of using or improving the facility or any portion or facility thereof or space therein for commercial purposes;
- b. conferring the privilege of supplying goods, commodities, services, or facilities at the facility; and
- c. making available services to be furnished by the Authority or its agents at the facility.

In each case the Authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which must be reasonable and uniform for the same class or privilege or service and must be established with due regard to the property and improvements used and the expenses of operation of the Authority.

3.04. Disposal of Property. Except as may be limited by the terms of this resolution, by the terms and conditions of any grant, loan, or agreement authorized by 7-14-1136, MCA, the Authority may sell, lease, or otherwise dispose of any transportation or other facility, or other property or portion of or interest in the facility or property acquired pursuant to this Resolution or the Act. The Authority may pledge, lease, sell or mortgage all or any part of its facilities to secure bonds issued by the Authority pursuant to Section 7-14-1133, MCA. The disposal by sale, lease, or otherwise must be in accordance with the laws of this State governing the disposition of public property, unless a sale, lease, mortgage, or other disposition is made to secure the bonds of the Authority.

Section 4. Rule-Making Authority. The Authority shall adopt, subject to approval by the Board, by-laws governing the conduct of its meetings and its affairs. The by-laws attached hereto as exhibit A are hereby approved. By-laws may not be amended without approval of the Board. The Authority may adopt, amend, and repeal such reasonable resolutions, rules and orders as it considers necessary for its own administration, management, and governance as well as for the management, government, and use of any transportation, storage or other facility owned by it or under its control. No rule, order, or standard prescribed by the Authority as hereinafter defined and created may be inconsistent with or contrary to any act of the Congress of the United States or any regulation promulgated or standard established pursuant thereto or any provision of this Resolution. The Authority shall keep on file at its principal office a copy of all Authority rules for public inspection.

Section 5. County Tax Levy, Other Funds Compliance.

5.01. Tax Levy and Other Funds. The Authority may annually request the Board to levy all or a part of the levy authorized by Sections 7-14-1132 and 67-10-402, MCA, to fund or

partially fund its activities. The Board may levy the amount requested, pursuant to provisions of law authorizing political subdivisions of this State to levy taxes and provided that the Authority is in compliance with Section 5.03 hereof. The County shall collect the taxes requested by the Authority and approved by the Board in the same manner as other taxes are levied and collected and make payment to the Authority. The proceeds of such taxes when and as paid to the Authority, and any other funds received from any source for Authority purposes, must be deposited in a separate fund in the County Treasury. Funds may be expended by the Authority for lawful Authority purposes as provided in this Resolution or as provided by conditions lawfully imposed by the Board.

5.02. Financial Requirements for Support. When requesting the mill levy authorized by Section 7-014-1121, MCA, the Authority shall submit to the Board its proposed fiscal year budget as required by 7-6-2348, MCA, and shall participate in the County budget process. The Authority shall be subject to the same financial control processes as any County department, including, but not limited to mid-year budget reviews and internal audits. The financial activities of the Authority shall be accounted for and reported in the same manner as any other County department's activities. If, in the view of the Board, a separate annual financial report needs to be prepared for the Authority, it will be included in the County's annual audit contract, but will be paid for by the Authority.

5.03. Pledge of Tax Levy. Prior to the issuance of bonds under Sections 7-14-1133 and 7-14-1134, MCA, the Authority and The Board may by resolution agree that the total amount of such taxes then authorized by law, or such portion thereof as may be specified by the resolution, will be certified, levied, and deposited annually as provided in this section until the bonds and interest thereon are fully paid.

Section 6. Bonds and Obligations. The Authority is authorized to issue bonds and obligations, subject to all limitations and requirements of Section 7-14-1133 through 7-14-1134, MCA, and this resolution.

Section 7. Assistance from Local Governments.

The activities of the Authority are public and governmental in nature. As provided by Section 7-14-1105, MCA, for the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of facilities pursuant to the Act, any local government, with or without consideration, upon such terms as it may determine, may:

- a. lend or donate money to the Authority;
- b. provide that all or a portion of the taxes or funds available or to become available to or required by law to be used by Missoula County for port purposes be transferred or paid directly to the County Treasury for the benefit of the Authority as such funds become available to the local government;
- c. cause water, sewer, or drainage facilities, or any other facilities that they are empowered to provide, to be furnished adjacent to or in connection with such ports or facilities;

- d. dedicate, sell, convey, or lease any of their interest in any property or grant easements, licenses, or any other rights or privileges therein to the Authority;
- e. furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from established streets or roads to such ports or facilities;
- f. do any and all things, whether or not specifically authorized in this section and not otherwise prohibited by law, that are necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of ports and facilities; and
- g. enter into agreements with the Authority respecting actions to be taken.

Section 8. Expenditure of Funds Made Available by Grant or Loan.

8.01. Federal and State Funds. Pursuant to Section 7-14-1136, MCA, the Authority may, subject to approval of the Board, apply for, accept, receive, receipt for, and spend Federal or State money and other public or private money made available by grant or loan to accomplish any of the purposes of this Resolution or the Act. All Federal and State money accepted under Section 7-14-1136 and this Resolution must be accepted and spent by the Authority upon terms and conditions prescribed by the United States or the State, as the case may be, and consistent with State law. All such funds must be accepted and spent by the Authority upon terms and conditions prescribed in the grant or loan agreements.

8.02. County Loans or Grants. All County funds made available by loan or grant shall be accepted and spent by the Authority only upon such terms, with or without consideration, as the Board may determine upon the occurrence of any such loan or grant.

Section 9. Tax Exemption. Pursuant to Section 7-14-1137, MCA, any property in Missoula County acquired by the Authority for port purposes pursuant to the provisions of this Resolution, and any income derived by the Authority from the ownership, operation, or control thereof, including property acquired, and income derived from organizations, including corporation organized under Title 32, Chapter 4, whose purpose is to advance the economic development of the jurisdiction and of the County and its citizens, are exempt from taxation to the same extent as other property used for public purposes.

Section 10. Commissioners of the Authority.

10.01. Number, Terms. The powers of the Authority shall be vested in a seven member Authority Commission, the members of which shall be referred to as Commissioners. The initial Commissioners and their successors shall be appointed by the Board as herein provided, consistent with the provision of the Act. The initial Authority Commissioners will be designated to serve for terms as follows: two for one year terms ; two for two year terms; and three for three year terms. The determination of length of term for each initial Authority Commissioner shall be made at the time of appointment by lot. Thereafter, each Authority Commissioner must be appointed for a term of three years except that vacancies occurring other than by expiration of a term must be filled for the unexpired term by the Board as provided in this Section.

10.02. Postings of all Vacancies. All Authority Commission vacancies shall be posted for public notice in the newspaper of general circulation

10.03. Appointment and Renewal of Authority Commissioners. Appointments shall be made by majority vote of the Board. Certificates of appointment of Authority Commissioners must be filed with the Authority. Each Commissioner shall hold office until a successor has been appointed as herein provided. Any Commissioner may be removed with or without cause by unanimous vote of the entire Board of County Commissioners.

10.04. Qualifications of Authority Commission Members. Only County residents shall be eligible to serve on the Commission.

#### Section 11. Internal Management of the Authority Commission and Conduct of Business.

11.01. Chair, Vice-Chair, Staffing. The Authority Commission shall elect from its number a chair and vice-chair. The Authority may employ or contract with individuals within budget parameters. Authority employees shall be Missoula County employees, and therefore shall be subject to all Missoula County personnel policies and procedures.

11.02. Interim Executive Director. The County's Chief Administrative Officer may, with the consent of the Authority Commission and the Board of County Commissioners, act as interim Executive Director of the Authority. It shall be the responsibility of the Interim Director to do the following:

- a. prepare proposed operating and capital improvement budgets.
- b. coordinate and develop potential projects with commerce and industry.
- c. seek funding for Authority operations and projects.
- d. coordinate Authority activities with and keep informed the local governing bodies of the City and the County.
- e. promote the purpose of the Authority.

11.03. Quorum. Pursuant to Section 7-14-1103 (1), MCA, a majority of the Authority Commissioners shall constitute a quorum for the purpose of conducting business of the Authority and exercising its powers for all other purposes. Action may be taken by the Authority upon a vote of not less than a majority of the Authority Commissioners present.

11.04. Standards of Conduct. The conduct of business, meetings of the Authority Commission and the conduct of individual Commissioners shall be governed by applicable Federal and State law relating to conduct of public business, including but not limited to the following:

- a. the rules of conduct for local government officers provided for in Section 2-2-125, MCA;
- b. the acts related to interest in contracts and claims prescribed in Section 2-2-201, MCA, et seq.;
- c. the statutes relating to nepotism in Section 2-2-301, MCA, et seq.;
- d. the requirements for public participation in governmental operations prescribed in Sections 1-3-101, MCA, et seq.;
- e. the open meeting requirements prescribed in Sections 2-3-201, MCA et seq.;
- f. all federal and state laws prohibiting discrimination on basis of race, sex, religion, political ideas, age, marital status, or physical or mental handicap.

PASSED AND ADOPTED this 12<sup>th</sup> day of May, 1997.

BOARD OF COUNTY COMMISSIONERS  
Missoula County, Montana

*Fern Hart*

Fern Hart, Chair

*Barbara Evans*

Barbara Evans, Commissioner

*Michael Kennedy*

Michael Kennedy, Commissioner

Approved as to Form and Content:

*Michael W. Schubert*  
Deputy County Attorney

Attest:

*Vickie M. Zuer*  
Clerk and Recorder