

BROADWATER COUNTY COMMISSIONERS

515 Broadway, Townsend

Meetings are held at the Flynn Building (old Opportunity Bank) 416 Broadway.

THERE WILL NOT BE A MEETING ON SEPTEMBER 26, 2022. ALL COMMISSIONERS WILL BE AT A MACO CONFERENCE THE WEEK OF SEPTEMBER 25TH. THE NEXT REGULAR SCHEDULED COMMISSION MEETING WILL BE OCTOBER 3, 2022

Meetings may be viewed on the website at <https://www.broadwatercountymt.com/home/pages/board-videos>. Public comment is taken either in writing in advance of the meeting or in person at the meeting.

Working meetings are held in various locations, please review the notice of the working meeting to determine the location. Working meetings are not recorded and as a result are not available on the website.

Agenda, documents, official meeting minutes and videos of past Commission meetings are available at <https://www.broadwatercountymt.com>.

OFFICIAL agendas are posted in the Courthouse (1st floor bulletin board), Broadwatercountymt.com, on the bulletin board on the 1st Floor of the courthouse, and in the window of the Flynn Building at least 48 hours in advance of the meeting.

MONDAY, SEPTEMBER 19, 2022

- 10:00 AM** Discussion, Intent to proceed with the issuance of revenue bonds pursuant to Title 90 Chapter 5 Part 1 MCA on behalf of Montana Opticom, a Montana LLC, for the purpose of expanding its fiber optic network and calling a hearing on the public interest to be promoted via the project
- 10:20 AM** Discussion and Decision, Melissa Franks, Superintendent of Schools, Townend School District #1 Budget Report FY 2023 and Trustee Summary
- 10:30 AM** Discussion and Decision, Nichole Brown, Community Planning and Development Director, Carlson Boundary Relocation

WEDNESDAY, SEPTEMBER 21, 2022

9:00 AM – 11:00AM Working Meeting, RID (Road Improvement District),

Public comment period (on items not on the agenda) will be at the beginning of each meeting. Mail & Items for Discussion and/or signature may occur as time allows during the meeting. Issues and times are subject to change.

Items for Discussion / Action / Review / Signature – Consent Agenda

✓ Certificate of Survey review

- ✓ Management – on-going advisory board appointments
- ✓ Claims/Payroll/minutes
- ✓ County Audit / Budget
- ✓ Mail – ongoing grants
- ✓ Correspondence – support letters
 - Debi Randolph 406-266-9270 and 406-980-2050
 - Darrel Folkvord Chairperson 406-266-9272 and 406-980-1213
 - Mike Delger 406-266-9271 and 406-521-0834
 - E-mail commissioners@co.broadwater.mt.us

FUTURE MEETINGS

**Please note that these times and dates may change. For the most recently updated information, please visit our website at www.broadwatercountymt.com.*

- September 19- BC Parks & Rec Meeting
- September 21- BC Airport Meeting
- September 26- Fair Board

DRAFT
RESOLUTION ____

**A RESOLUTION OF THE BROADWATER COUNTY COMMISSION
STATING ITS INTENTION TO PROCEED WITH ISSUANCE OF
INDUSTRIAL DEVELOPMENT REVENUE BONDS PURSUANT TO
TITLE 90, CHAPTER 5, PART 1, MCA, ON BEHALF OF MONTANA
OPTICOM, A MONTANA LLC, FOR THE PURPOSE OF EXPANDING
ITS FIBER OPTIC NETWORK AND CALLING A HEARING ON THE
PUBLIC INTERESTS TO BE PROMOTED VIA THE PROJECT.**

RECITALS

WHEREAS, Broadwater County, Montana (the “County”), is authorized by Title 90, Chapter 5, Part 1, Montana Code Annotated, as amended (the “Act”) to issue industrial development revenue bonds (the “Bonds”) for the financing of acquisitions and improvements to real and personal property suitable to use for commercial, manufacturing, agricultural, or industrial enterprises where the improvements are in the public interest of the County and to provide money from such financing to be used for the acquisition, construction, equipping, and installation of such improvements by a loan to a company or to be owned by a company being solely responsible for all obligations under the Bonds and all costs of issuing the Bonds;

WHEREAS, Montana Opticom, a Montana limited liability company, located at 144 Quail Run Rd, Bozeman, Montana (the “Company”), has applied for and anticipates being awarded grant funding for the development of fiber optic internet in and around Broadwater County.

WHEREAS, the Company is required to provide matching funds in order to receive the grants and develop fiber optic internet infrastructure in and around Broadwater County;

WHEREAS, the company has advised the County that it proposes that the County issue the Bonds and loan the proceeds of the Bonds to the Company in order to assist the Company with the financing of the costs of constructing an expansion of its fiber optic cable network, with such construction to be located, among other places, in Broadwater County, Montana (the “Project”);

WHEREAS, the Company has represented the following:

1. The Company has engaged Jackson, Murdo & Grant, P.C. to serve as nationally recognized Bond Counsel to draft all the Bond documents, the necessary resolutions authorizing issuance of the Bonds, and any other documents necessary for the issuance of the Bonds. The Company will be solely reliable for paying its bond counsel fees and any related costs of issuing the Bonds from the proceeds of the Bonds.

2. The Company will pay an issuance fee of 6.5 basis points to reimburse the County for any costs to the County incurred in the issuance of the Bonds—which assuming a bond principal of \$60,000,000 would result in a fee to the County of \$39,000.

3. The County will be acting solely as a conduit issuer of the Bonds and will not incur **any** pecuniary liability or any charge upon its general credit or against its taxing powers. Moreover, at closing of the Bonds, the Company and the County will enter into a Loan Agreement as part of the Bond Documents whereby the Company assumes all obligations, liabilities, covenants, and duties under the Bonds and whereby the company agrees to indemnify, defend, and hold the County and its individual members, employees, and officers thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, equipping, and installation of the Project.

WHEREAS, the Company proposes that the expansion of its fiber optic cable network through the Project will be of benefit to the general welfare of the County and its citizens, and the County has preliminarily concurred and determined to call a public hearing to receive public comments thereon;

WHEREAS, it is proposed by the Company that the County will enter into a loan agreement at the closing of the Bonds whereby the Company assumes all obligations, liabilities, covenants, and duties under the Bonds and whereby the Company agrees to indemnify, defend and hold the County and its individual members, directors and officers thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, equipping and installation of the Project;

WHEREAS, the County will enter into a trust indenture at the closing of the Bonds with U.S. Bank National Association, as trustee (the “Trustee”). The Trustee will agree to authenticate and deliver the Bonds, and to hold in trust all such property, rights, interests, revenues and funds pledged, assigned and mortgaged in the trust indenture subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as expressed in such trust indenture;

WHEREAS, the County will be acting as a conduit issuer of the Bonds will not incur any pecuniary liability or any charge upon its general credit or against its taxing powers; and

WHEREAS, the Company will pay all costs of issuing the Bonds and will in addition pay the County a reasonable one-time fee paid at closing in the amount of 6.5 basis points of the par value of the Bonds to compensate the County for all costs and time incurred in issuing the Bonds.

NOW THEREFORE, BE IT RESOLVED by the County Commission of the County of Broadwater, as follows:

Section 1. The County preliminarily determines that the expansion of fiber optic cable internet in the County promotes the health, safety, and general welfare of the citizens of the County

and that it is in the public interest that the County take such action as it lawfully may to encourage the promotion and further development of fiber optic cable in the County.

Section 2. The County further preliminarily finds and determines that the issuance and sale of the Bonds in one or more series of Bonds in the maximum aggregate amount of not to exceed \$60,000,000 of the County under the Act for the acquisition, construction, and equipping of the Project and the loan of the proceeds of the Bonds to the Company will serve the public purposes referred to above, in accordance with the Act. The County retains the right in its sole discretion to withdraw from participation and accordingly not issue the Bonds should the County at any time prior to the issuance thereof determine that it is in the best interests of the County not to issue the Bonds or should the parties to the transaction be unable to reach agreement as to the terms and conditions of any of the documents required for the transaction.

Section 3. The County hereby calls a public hearing on the Project during its regular meeting on [REDACTED], 2022 to consider any public comments on the matter prior to issuing the Bonds and will publish notice of this hearing once a week for three weeks prior to the [REDACTED], 2022 hearing in the Broadwater County News in the form attached hereto as Exhibit A. Upon conclusion of the hearing and in the event the County determines the issuance of the Bonds in one or more series is in the public's interest, the County shall take or cause to be taken any other such actions pursuant to the Act (including actions referenced in Sections 4, 5, 6, and 7 below) as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof, provided that all of the foregoing shall be mutually acceptable to the County and the Company. The County will adopt such resolutions and authorize the execution and delivery of such instruments and take such action as may be necessary and advisable for the authorization, issuance and sale of the Bonds, provided; however, 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 Company.

Section 4. The County may issue the Bonds in one or more series, in a principal amount currently estimated not to exceed \$60,000,000, for the purpose of paying, in whole or in part, the costs of the planning, design, acquisition, construction, equipping and installation of the Project and the costs of issuing the Bonds. The County will issue the Bonds as taxable bonds.

Section 5. The County may sell the Bonds to a purchaser or purchasers nominated by the Company and at prices to be approved by the Company, and if successful marketing arrangements can be made, it will adopt such proceedings as are necessary for the entering into the Agreement referred to in Section 6 below and for the issuance and securing of the Bonds. Under the provisions of the Act, any Bonds so issued shall be limited obligations of the County and shall not give rise to a pecuniary liability of the County or a charge against its general credit or taxing powers.

Section 6. Simultaneously with the delivery of each series of Bonds, the County shall lend the proceeds from the sale of the Bonds to the Company pursuant to a loan agreement (the "Agreement") to enable it to plan, design, acquire, construct, equip and install the Project, and the terms and provisions of such Agreement shall be substantially in the form generally utilized in connection with such financial undertakings, as agreed upon by the County and the Company. The Agreement will comply with the requirements of the Act and shall contain, in substance, the following provisions:

(a) The term of the Agreement will coincide with the term of the Bonds.

(b) The amounts payable under the Agreement will be paid directly the Trustee at such times and in such amounts as shall be timely and sufficient to pay the principal of, the redemption premium (if any) and the interest on the Bonds as the same become due and payable. The obligation of the Company to make all payments required under the Agreement shall be absolute and unconditional after the delivery of the Bonds.

(c) The proceeds of the sale of the Bonds will be deposited in a Project fund to be held by the Trustee and disbursed pursuant to requisitions in accordance with the requirements of the Agreement. During the construction period, money in the Project fund may be invested in obligations which represent legal investments for Bond proceeds of the County.

(d) The Agreement shall provide that in the performance of the agreements contained therein on the part of the County, any obligations it may incur for the payment of money shall not be a general debt on its part and shall not be payable in any manner by revenues raised by taxation, but shall be payable solely from the payments received under the Agreement or from Bond proceeds, and, under certain circumstances, insurance proceeds and condemnation awards.

(e) The Agreement shall contain agreements providing for the indemnification of the County and the individual members thereof for all expenses incurred by them and for any claim of loss suffered or damage to property or any injury or death of any person occurring in connection with the planning, design, acquisition, construction, equipping, installation and carrying out of the Project.

Section 7. The County shall enter into a trust indenture (the "Indenture") with the Trustee. The terms of the Indenture shall be agreed upon by the County, the Company, and the Trustee.

Section 8. If for any reason the County has not issued each series of Bonds pursuant to this Resolution within three years from the date of its adoption, the provisions of this Resolution and the agreement resulting from its acceptance by the Company shall, at the option of either the County or the Company to be evidenced in writing, be canceled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

(a) the Company will pay the County for all expenses which have been incurred by the County in connection with the planning, design, acquisition, construction, equipping and installation of the Project; and

(b) the Company will pay Bond Counsel reasonable fees for legal services related to the Project and the proposed issuance of the Bonds.

Section 9. The Company will apply for, and use its reasonable efforts to obtain, all permits, licenses, authorizations, and approvals required by all governmental authorities in

connection with the acquisition, construction, equipping, installation and operation and use of the Project.

Section 10. The Company, in accepting the conditions contained in this Resolution, agrees to indemnify, defend and hold the County and the individual members, directors and officers thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the planning, design, acquisition, construction, equipping and installation of the Project. The Company also agrees to reimburse or otherwise pay on behalf of the County any and all reasonable expenses not hereinabove mentioned, incurred by the County in connection with the Project. This indemnity shall be superseded by a similar indemnity in the Agreement and, if the Bonds are not issued and delivered, the indemnity shall survive the termination of the agreement resulting from the Company's acceptance of the proposals contained in this Resolution.

Section 11. The Company, in accepting the conditions contained in this Resolution, agrees that proceeds of the Bonds will be used only in a manner authorized by the Act.

The acceptance of the terms of this Resolution by the Company shall be deemed to mean that the Company agrees to guarantee payment of the Bonds issued by the County at the request of the County in connection with such contracts or otherwise. The Company may advance any interim funds required in connection with the planning, design, acquisition, construction, equipping and installation of the Project and be reimbursed from the proceeds of the sale of the Bonds when the same are issued and delivered.

PASSED AND ADOPTED by the Broadwater County Commission, this __ day of August, 2022.

BROADWATER COUNTY
COMMISSION
Broadwater County, Montana

By: _____
Darrell Folkvord, Chairman

ATTEST:

_____, Clerk of Board

EXHIBIT A

NOTICE OF PUBLIC HEARING

The Broadwater County Commissions (the “County”) will hold an open public hearing on _____, 2022, during its regular meeting at 10:00 a.m., at 515 Broadway, Townsend, Montana, for the purpose of considering the issuance of industrial development revenue bonds pursuant to Title 90, Chapter 5, Part 1, Montana Code Annotated, as amended. The proposed project will be located, among other places, in the boundaries of the County and will consist of the financing of the costs of constructing an expansion of a fiber optic cable network owned by Montana Opticom, a Montana limited liability company (the “Project”).

The money for the Project will be provided by the issuance of revenue bonds in the maximum principal amount of up to \$60,000,000 (the “Bonds”). The Bonds will be issued on behalf of Montana Opticom and Montana Opticom will assume all payment obligations, duties, and liabilities thereunder. Montana Opticom will pay all costs of issuing the Bonds and will in addition pay the County a reasonable fee for the issuance of the Bonds. The bonds will not constitute or give rise to (i) a pecuniary liability of the County or (ii) a charge against its full faith and credit or taxing powers. Testimony will be heard from all interested members of the public attending the hearing. Written comments on the Project and the bond issue may be addressed to the Broadwater County Commission, 515 Broadwater Street, Townsend, Montana 59644.

Publish: _____, 2022
 _____, 2022
 _____, 2022

REQUEST FOR EXEMPTION REVIEW

Note to Applicant: The purpose of this review is to enable Broadwater County officials to determine whether or not the proposed use of an exemption from local subdivision review would evade the Montana Subdivision and Platting Act.

Part One. Applicant Information

Landowner(s): Ernest & Susan CARLSON
Address: TOWNSEND, MT 59644
Telephone Number(s): _____

Landowner Representative: Schauber Survey
Address: 64 Jack Farm Road Phone: 406-266-4602

Part Two. Legal Description: Tr 3 & Tr 4 of Book 3, Pg 137, Section 27, T. 7 N., R. 2 E., Broadwater Co. MT.

Part Three. Basis for Exemption Request:

What exemption is being claimed, and what is the basis for your exemption claim?
Ernie turns 80 in April 2023. Time to retire! We are selling to a neighbor who intends to keep farming the alfalfa field. We love living here and would like to keep our house, shop and barn and 3 1/2 acres.

Part Four. Supporting Information: Please provide all pertinent information, including an accurate certificate of survey or amended subdivision plat, as applicable and where required. A subdivision exemption review fee must be submitted with the exemption request.

AFFIDAVIT: I hereby certify that the purpose of this exemption request is NOT to evade the Montana Subdivision and Platting Act. Dated this 29 day of August, 2022

Signature(s): _____ Susan Carlson

Certificate of Governing Body:

We, the Board of County Commissioners, do hereby certify that the use of the exemption claimed on the accompanying Certificate of Survey has been duly reviewed, and has been found to conform to the requirements of the Subdivision and Platting Act, Section 76-3-101 et. seq. MCA, and the Broadwater County Subdivision Regulations.

Dated this _____ day of _____, A.D., 20_____

Commissioner

Commissioner

Commissioner

C&R Attest

