BOISE COUNTY

RESOLUTION #2012-07

RESOLUTION OF THE BOISE COUNTY BOARD OF COUNTY COMMISSIONERS, RELATING TO THE ISSUANCE OF REGISTERED WARRANTS FOR THE PURPOSE OF PAYING THE EMERGENCY EXPENDITURE WHICH SATISFIES THE SETTLEMENT AMOUNT OF $5,400,000.00 IN *ALAMAR RANCH, LLC, ET AL. V. COUNTY OF BOISE,* CASE NO. 1:09-CV-004-BLW (U.S. DISTRICT COURT FOR THE DISTRICT OF IDAHO) DOCKET NO. 245 ("ORDER"); MAKING FINDINGS AND DECLARATIONS; AUTHORIZING THE ISSUANCE OF REGISTERED WARRANTS, IN THE PRINCIPAL AMOUNT NOT TO EXCEED $5,400,000.00; PROVIDING FOR THE EXECUTION AND REGISTRATION OF THE WARRANTS; FIXING THE RATE OF INTEREST ON THE WARRANTS; PROVIDING OTHER TERMS AND COVENANTS RELATING TO THE WARRANTS; CREATING A WARRANT REDEMPTION FUND; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the County of Boise, Idaho (the "County"), is duly organized and existing under the laws of the State of Idaho; and

WHEREAS, the County has duly adopted budget and appropriation resolution for the 2012 Fiscal Year, but, under the tax certification, levy, and collection cycle established by Idaho law, the County cannot certify a levy of taxes prior to October 1, 2012, which taxes will be levied and collected for the 2013 Fiscal Year of the County and will be received by the County in 2013; and

WHEREAS, the County has declared an emergency under Idaho Code § 31-1608 after receipt of the decision of Hon. Terry L. Myers, U.S. Bankruptcy Court for the District of Idaho, Case No. 11-00481-TLM, Docket No. 157 ("Bankruptcy Decision") wherein the Court found payment of the Judgment entered in *Alamar Ranch, LLC, et al. v. County of Boise,* Case No. 1:09-cv-004-BLW (U.S. District Court for the District of Idaho) ("Alamar Case") is an emergency.

WHEREAS, the County has received an Order from Hon. B. Lynn Winmill in the Alamar Case, Docket No. 245 ("Order") wherein the County is required to issue warrants to pay the settlement amount of $5,400,000.00 and other consideration to Plaintiffs specified therein ("settlement amount"), said warrants to be issued in a series to be paid in Fiscal Year 2012-2016 and possibly additional fiscal years until paid as described in the Order; and

WHEREAS, the payment of the Order constitutes an "ordinary and necessary expense" of the County, authorized by the general laws of the state, within the meaning of Article 8, § 3, Idaho Constitution as determined by the Bankruptcy Decision and for which no approval of electors of the County is required, see Idaho Code §§ 31-1608, 31-1507, 31-1508, 31-1510 and 31-1511 to borrow money and issue registered warrants to make such payment; and

WHEREAS, the County has insufficient funds to pay the amount specified in the Order within the current budget and funds of the County so the County is authorized by the Order and the Bankruptcy Decision, by and through the provisions of Idaho Code §§ 63-806, 31-2124, 31-2125, and Article VII, § 15, Idaho Constitution, to keep and to issue registered warrants to authorize and provide for the redemption fund levy, and the issuance and sale of registered warrants to Plaintiffs Alamar Ranch, LLC and YTC, LLC in c/o Banducci, Woodard, Schwartzman PLLC to pay the settlement amount of $5,400,000.00 at 5.5% interest in the fiscal years 2012-2016 and subsequent fiscal years as necessary until paid.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONSERS OF THE COUNTY OF BOISE, IDAHO, as follows:

Section 1: The Board hereby finds and declares as follows:

A. The County approves the settlement of *Alamar Ranch, LLC, et al. v. County of Boise, Idaho,* Case No. 1:09-cv-004-BLW, docket no. 240 and the Order further specifying said payments in docket no. 245 and hereby orders the issuance of warrants consistent therewith.

B. The County has insufficient funds currently available to pay the full settlement amount memorialized in the Alamar Case docket no. 240 authorized by the general laws of the state and will follow the process to pay the settlement amount as set forth in the Order, docket no 245.

C. The payment of the settlement amount is an "ordinary and necessary expense" of the County, authorized by the general laws of the State, within the meaning of Article 8, § 3, Idaho Constitution, for which no approval of the electors of the County is required.

Section 2: For the purposes of providing funds to pay the settlement amount of the County for the balance of the 2012 Fiscal Year, which ends on September 30, 2012, the Treasurer is authorized to issue a warrant in the amount of $1,200,000.00 redeemable on November 14, 2011, and another warrant in the amount of $1,050,000.00 on or before December 21, 2011. The County Treasurer is authorized to issue warrants in the amount of $405,500.00 maturing as follows: February 28, 2013, September 1, 2013, February 28, 2014, September 1,2014, February 28, 2015, September 1, 2015, February 28, 2016 and September 1, 2016 (the "Warrants"), are hereby authorized to be issued, sold, and delivered in the manner hereinafter provided.

Section 3: The Warrants shall be substantially in the form annexed hereto as Exhibit "A"; shall be issued to Alamar Ranch, LLC, an Idaho limited liability company and YTC, LLC, an Idaho limited liability company to the client trust account of Banducci, Woodard, Schwartzman PLLC, Boise, Idaho, as Registered Owner; shall be issued in the aggregate principal amounts of not to exceed the amounts stated and maturing as set forth in Section 2 herein.

Section 4: Each Warrant shall be dated as of its date of delivery and shall bear interest on the outstanding principal amount thereof at the rate of five and fifty hundredths percent (5.50%) per

annum from its date of issuance and delivery until paid in full, shall be registered in the name of the Registered Owner, both as to principal and as to interest, with the County Treasurer, and any transfer must likewise be registered, and shall be payable in lawful money of the United States of America to the Registered Owner thereof at the address of the Registered Owner as 802 W. Bannock Street, Suite 500, Boise, Idaho 83702.

Section 5: Each Warrant shall be executed in the name of the County by the manual signature of the Chairperson of the Board of Commissioners and County Clerk. In accordance with § 31-2125, Idaho Code, each Warrant shall bear the notation "This Warrant is not paid for want of funds," manually signed by the County Treasurer.

Section 6: The County reserves the right to prepay any Warrant, in full, on any date, without penalty.

Section 7: There is hereby created a special fund of the County, designated the "County of Boise Warrant Redemption Fund" (the "Warrant Redemption Fund"), into which shall be deposited all taxes to be levied by the County for the purpose of redeeming the Warrants. The taxes so levied, together with any other funds which the County may deposit into the Warrant Redemption Fund, are hereby irrevocably pledged to the payment of the principal of and interest on the Warrants and any additional registered warrants which the County may hereafter issue. The County further pledges and covenants that it will, in the time and manner provided, and to the extent permitted, by the laws of the State of Idaho, certify to the Board of Commissioners of Boise County, Idaho, for levy and collection for the 2012-2016 Fiscal Years of the County, in addition to all other taxes certified by the County, an amount fully sufficient to pay the principal of and the interest on the Warrants on their maturity date. Nothing herein shall be construed to limit the payment of the principal of and interest on the Warrants solely to the taxes to be so levied, but the Warrants shall be the direct and general obligations of the County for which the full faith and credit of the County is pledged.

Section 8: The County further covenants with the registered Owner of the Warrants as follows:

A. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Warrants shall be issued and remain in fully registered form in order that interest thereon be excluded from gross income of the owner or owners for federal income tax purposes. The County covenants and agrees that it will take no action to permit the Warrants to be issued in or converted to bearer form.

B. The Warrants are hereby designated as "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265(b)(3) of the Code, and the County does not reasonably anticipate that it will designate more than $5,400,000.00, including the Warrants, as qualified tax-exempt obligations during the calendar year 2012.

C. None of the proceeds of the Warrants will be used directly or indirectly (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than use as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality thereof, and the term "trade or business" means any activity carried on by a person other than a natural person. The County further covenants and agrees to take no action which would cause the Warrants to be "private activity bonds," nor will it omit to take any action necessary to prevent the Warrants from becoming "private activity bonds," within the meaning of Section 141 of the Code.

D. The County has general taxing powers. The Warrants are not "private activity bonds" within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Warrants are to be used for the local governmental activities of the County. The County has no subordinate entities. The County has not issued, and does not reasonably anticipate that it will issue, tax-exempt obligations in the calendar year 2012 in a face amount which exceeds $5,000,000. Accordingly, under Section 148(f)(4)(D) of the Code, the County is not required to pay rebates to the United States under Section 148(f) of the Code.

E. The Chairperson, County Clerk, County Treasurer, and other appropriate officials of the County, or any one or more of such officials, as may be appropriate, are each hereby authorized and directed to execute, on behalf of the County, such certificate or certificates as shall be necessary to establish that the Warrants are not "arbitrage bonds" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated thereunder, and to establish that interest on the Warrants is not and will not become includable in the gross income of the owners of the Warrants under the Code and applicable regulations. The County covenants and agrees that no use will be made of the proceeds of the Warrants, or any funds of the County which may, pursuant to Section 148 of the Code and applicable regulations, be deemed to be proceeds of the Warrants, which would cause the Warrants to be "arbitrage bonds" within the meaning of Section 148 of the Code. The County further covenants to comply throughout the term of the Warrants with the requirements of Section 148 of the Code and the regulations promulgated thereunder in order to prevent the Warrants from becoming "arbitrage bonds."

F. The County will comply with the information reporting requirements of Section 149(e) of the Code.

Section 9: The Chairperson of the Board of Commissioners, County Clerk and County Treasurer, or either, as may be appropriate to the document being executed, are hereby further authorized to execute such further documents and certifications as may be necessary or appropriate to carry out the intent of this Resolution.

Section 10: Nothing in this Resolution shall be construed as limiting the right of the County to issue additional registered warrants for the payment of the lawful expenses of the County for the 2012 Fiscal Year, so long as the County, at the time of issuance of such additional registered warrants, shall make due provision for the levy of a tax or the provision of other revenues sufficient to redeem such additional registered warrants when due.

Section 11: This Resolution shall take effect and be in force from and after its passage and approval.

DATED this 10th day of November, 2011.

COUNTY OF BOISE, IDAHO

Jamie A. Anderson
Chairperson

Terry C. Day
Commissioner

Robert A. Fry
Commissioner

ATTEST:

Mary T. Prisco
County Clerk/Auditor