

RESOLUTION NO. 2926

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEND, OREGON, AUTHORIZING THE EXECUTION AND DELIVERY OF FULL FAITH AND CREDIT REFUNDING OBLIGATIONS, SERIES 2013, FOR THE PURPOSE OF CURRENTLY REFUNDING ALL OR A PORTION OF THE CITY'S OUTSTANDING FULL FAITH AND CREDIT OBLIGATIONS, SERIES 2003; AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT AND RELATED SALE DOCUMENTS; DESIGNATING AUTHORIZED REPRESENTATIVES AND DELEGATING AUTHORITY; APPOINTING SPECIAL COUNSEL; AND RELATED MATTERS.

Findings:

A. The City of Bend ("City") is authorized by Oregon Revised Statutes ("ORS") 271.390, the laws of the State of Oregon (the "State") and its City Charter, to enter into financing agreements, lease-purchase agreements or other contracts of purchase for any real or personal property that the City determines is needed and to provide for the issuance of certificates of participation in the payment obligations of the City under financing agreements, lease-purchase agreements or other contracts of purchase.

B. The City previously authorized the sale, issuance and delivery of Full Faith and Credit Obligations, Series 2003 (the "2003 Obligations"), in an aggregate principal amount of \$13,300,000 pursuant to ORS 271.390 and Resolution No. 2395 adopted by the City Council on March 5, 2003, as supplemented by Supplemental Resolution No. 2401 adopted by the City Council on April 2, 2003 (the "2003 Resolutions").

C. The City is authorized pursuant to the Oregon Constitution, the laws of the State, including ORS 271.390 and 287A.360 through 287A.380 to issue obligations to currently refund all or any portion of the 2003 Obligations to achieve debt service savings.

D. The City's financial advisor, Western Financial Group, LLC (the "Financial Advisor"), has advised the City that under the current market conditions, current refunding of the 2003 Obligations would provide debt service savings to the City.

E. The City desires to take advantage of current interest rate savings to refund all or any portion of the 2003 Obligations and to authorize the sale, issuance and delivery of Full Faith and Credit Refunding Obligations, Series 2013 (the "2013 Obligations") in a principal amount not to exceed the amount necessary to accomplish that purpose and to pay costs associated with the issuance of the 2013 Obligations (the "Project").

F. It is in the best interests of the City to authorize the execution and delivery of a tax-exempt financing agreement (the "Financing Agreement"), between the City and the Bank of the Cascades (the "Purchaser"), and other financing agreements, purchase agreements, notices, certificates or related documents (together with the Financing Agreement collectively, the "Financing Documents"), to establish the terms for the execution, delivery and sale of the 2013 Obligations under the Financing Agreement to the Purchaser and to comply with the terms and conditions for prepayment of the 2003 Obligations consistent with the provisions of the 2003 Resolutions and the documents authorized by the 2003 Resolutions.

G. The City adopts this Resolution (i) to provide the terms under which the 2013 Obligations may be issued, subject to current market conditions and debt service savings to the City; (ii) to provide the terms of execution, delivery and sale of the 2013 Obligations, evidencing and representing the payment obligations of the City under the Financing Agreement; and (iii) to authorize certain officials and employees of the City to take action on the City's behalf and to execute and deliver the Financing Documents.

Based on these findings, the Bend City Council resolves as follows:

Section 1. Authorization of the 2013 Obligations and Financing Documents.

2013 Obligations. The City authorizes the execution and delivery of the 2013 Obligations in a principal amount not exceeding the amount necessary to effect the refunding of the 2003 Obligations and to pay costs of issuance allocable to the 2013 Obligations, provided the amount does not exceed the amount determined by the Authorized Representative (as defined in Section 2) necessary to achieve debt service savings. The proceeds of the 2013 Obligations received by the City pursuant to the terms of the Financing Agreement shall be used to pay all or a portion of the costs of the Project. The true interest cost of the 2013 Obligations shall not exceed 3.00 % per annum.

2013 Financing Documents. The City authorizes the execution and delivery of the Financing Documents.

The City authorizes the sale of the 2013 Obligations to the Purchaser and delegates to the Authorized Representative the authority to establish the terms for the sale consistent with this authorization and as set forth in Section 7.

Section 2. Authorized Representative. The City authorizes and directs the City Manager, the Finance Director, or their respective designees (each, an "Authorized Representative"), each acting individually, to act on behalf of the City and execute and deliver the Financing Documents related to the sale, execution and delivery of the 2013 Obligations and to determine the remaining terms of the 2013 Obligations to be established as set forth in Section 7.

Section 3. Security. The financing payments (the "Financing Payments") under the Financing Agreement shall be secured by and payable from the City's general non-restricted revenues and other funds that are lawfully available for that purpose, including, the proceeds of the Financing Agreement and revenues from an ad valorem tax authorized to be levied under the City's permanent rate limit under sections 11 and 11b, Article XI of the Oregon Constitution, and revenues derived from other taxes, if any, levied by the City in accordance with and subject to limitations and restrictions imposed under applicable law or contract, that are not dedicated, restricted or obligated by law or contract to an inconsistent expenditure or use. The City pledges its full faith and credit and taxing powers to the repayment of the Financing Payments as contemplated by ORS 287A.315, or any successor statute. The Purchaser of the 2013 Obligations will not have a lien or security interest on the Project financed with the proceeds of the Financing Agreement.

Section 4. Form of 2013 Obligations. The 2013 Obligations may be prepared as a single obligation by Special Counsel in substantially the form approved by the Authorized Representative. The 2013 Obligations shall be subject to authentication, registration, payment, exchange and transfer as provided in the Financing Documents.

Section 5. Optional Prepayment. Amounts payable by the City under the Financing Agreement and amounts payable under the 2013 Obligations may be subject to optional prepayment prior to stated principal component payment dates as determined by the Authorized Representative pursuant to Section 7.

Section 6. Tax-Exempt Status and Covenant as to Arbitrage.

The City covenants to use the proceeds of the Financing Agreement and the Project financed with the proceeds of the Financing Agreement, and to otherwise comply with the provisions of the Internal Revenue Code of 1986 (the "Code") so that the interest components paid pursuant to the 2013 Obligations will not be includable in gross income of the owner or owners of the 2013 Obligations for federal income tax purposes. The City specifically covenants:

- (a) To comply with "arbitrage" provisions of Section 148 of the Code, and to pay any required rebates and penalties; and
- (b) To operate the facilities financed or refinanced with the proceeds of the 2013 Obligations so that neither the 2003 Obligations nor the 2013 Obligations are "private activity bonds" under Section 141 of the Code; and
- (c) To comply with all reporting requirements.

Section 7. Delegation for Establishment of Terms and Sale of the 2013 Obligations. Each Authorized Representative, acting singly, is authorized and directed, on behalf of the City without further approval of the City Council to:

- (a) Select all or any portion of the maturities of the 2003 Obligations to be refunded, irrevocably call for prepayment of those maturities of the 2003 Obligations selected for refunding with the proceeds of the 2013 Obligations on the earliest date those maturities are subject to prepayment, and cause notice of defeasance and notice of prepayment to be given as required by the terms of the 2003 Obligations, provided that the Authorized Representative determines that the refunding will provide debt service savings;
- (b) Provide for any necessary prepayment notices to the escrow agent of the 2003 Obligations, the 2003 Obligation holders and any municipal bond insurers providing municipal bond insurance policies for the 2003 Obligations;
- (c) Negotiate, execute and deliver any other documents, agreements, notices or certificates that may be necessary to comply with the terms and conditions for prepayment of the 2003 Obligations consistent with the provisions of the 2003 Resolutions and the documents authorized by the 2003 Resolutions;

(d) Establish the principal and interest component payment dates, principal component amounts, optional prepayment provisions, if any, interest component amounts, premium and/or discount, if any, denominations and all other terms for the Financing Agreement and the 2013 Obligations;

(e) Make any covenants necessary or desirable to obtain good financing terms on the 2013 Obligations with respect to the pledge of the City's full faith and credit to secure the 2013 Obligations;

(f) Negotiate the terms of, and execute and deliver the Financing Documents;

(g) Approve the form of the 2013 Obligations;

(h) Approve, execute and deliver closing documents and certificates relating to the sale of the 2013 Obligations and the execution and delivery of the 2013 Obligations and the Financing Documents;

(i) Enter into covenants regarding the use of the proceeds of the 2013 Obligations received by the City pursuant to the Financing Agreement and the use of the Project to maintain the tax-exempt status of the 2013 Obligations, including the execution and delivery of a tax certificate; and

(j) Execute and deliver a certificate specifying the actions taken pursuant to this Section 7, and any other certificates, documents or agreements that an Authorized Representative determines are desirable to execute and deliver the 2013 Obligations and the Financing Documents in accordance with this Resolution.

Section 8. **Prepayment of the 2003 Obligations.** Contingent solely on the issuance of the 2013 Obligations, the Authorized Representative is authorized to irrevocably call for prepayment all or a portion of the City's outstanding 2003 Obligations that are to be refunded with the proceeds of the 2013 Obligations on the earliest dates they are subject to prepayment.

Section 9. **Appointment of Special Counsel and Financial Advisor.** The City appoints Orrick, Herrington & Sutcliffe LLP of Portland, Oregon, as special counsel to the City with respect to the 2013 Obligations and Western Financial Group, LLC, as Financial Advisor to the City with respect to the 2013 Obligations.

Section 10. **Resolution to Constitute Contract.** In consideration of the purchase and acceptance of any or all of the 2013 Obligations by the Purchaser, the provisions of this Resolution shall constitute a contract of the City with the Purchaser pursuant to ORS 287A.315 and ORS 287A.325, or any successor statute. The covenants, pledges, representations and warranties contained in this Resolution, or in the closing documents executed in connection with the 2013 Obligations, including without limitation the City's covenants and pledges contained in Section 3, and the other covenants and agreements to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Purchaser, all of which shall be of equal rank without preference, priority or distinction of any 2013 Obligations over any other, except as expressly provided in or pursuant to this Resolution.

Section 11. Effective Date of Resolution. This Resolution shall take effect immediately upon adoption by the City Council.

ADOPTED by roll call on October 2, 2013.

YES: Mayor Jim Clinton
Councilor Jodie Barram
Councilor Scott Ramsay
Councilor Mark Capell
Councilor Victor Chudowsky
Councilor Doug Knight
Councilor Sally Russell

NO: none



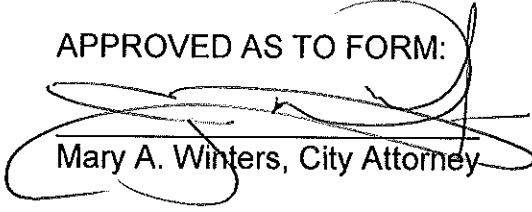
Jim Clinton, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

