

## RESOLUTION NO. 3294

RESOLUTION OF THE CITY OF BEND, OREGON AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF FULL FAITH AND CREDIT OBLIGATIONS, IN ONE OR MORE SERIES, TOGETHER OR SEPARATELY, FROM TIME TO TIME, IN AN AGGREGATE PRINCIPAL AMOUNT OF UP TO \$5,800,000 NECESSARY FOR THE PURPOSES OF ACQUIRING REAL PROPERTY, FUNDING CAPITAL PROJECTS AND PAYING COST OF ISSUANCE RELATED THERETO; AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AGREEMENT OR OTHER FINANCING AGREEMENT AND RELATED ISSUANCE AND SALE DOCUMENTS; AND AUTHORIZING SUCH OTHER AGREEMENTS, CERTIFICATES AND DOCUMENTS AS MAY BE NECESSARY AND APPROPRIATE TO CARRY OUT SUCH TRANSACTION; DESIGNATING AUTHORIZED REPRESENTATIVES AND DELEGATING AUTHORITY; AND RELATED MATTERS.

### FINDINGS

The City Council (the "City Council") of the City of Bend, Oregon (the "City") finds the following:

A. The City is authorized by Oregon Revised Statutes ("ORS") 271.390, to enter into contracts for the financing of any real or person property that the governing body determines is needed and secure such contracts with a pledge of lawfully available funds;

B. ORS 287A.315 provides that a public body may pledge its full faith and credit and taxing power when it issues an obligation that is secured by all lawfully available funds of the public body;

C. The City Council approved the purchase of the 1.03-acre site at 154 NE Franklin Avenue (the "Site") to be potentially used as a temporary shelter, a city hall, affordable housing, a civic plaza, and/or other public use;

D. The City has determined that it is financially feasible and in the City's best interests and will serve a public purpose to authorize the sale, issuance and delivery of full faith and credit obligations (the "2022 Obligations") in one or more series, from time to time, together or separately, in an amount sufficient to (i) acquire the Site, (ii) fund other capital projects permitted under ORS 271.390, and (iii) pay costs of issuance (collectively, the "Project");

E. It is in the best interest of the City to authorize the execution and delivery of a purchase agreement or other financing agreement (the "Financing Agreement"), establishing the terms and conditions of the purchase and sale of the 2022 Obligations in a method to be determined by the authorized representative of the City as provided herein, and such other agreements, certificates and documents as may be necessary to provide for the financing of the Project, and the terms and conditions for the purchase, sale, issuance, execution, delivery and administration of the 2022 Obligations (collectively, the "Financing Documents"); and

F. The City adopts this Resolution to authorize and provide for (i) the execution and delivery of the 2022 Obligations and the Financing Documents related thereto consistent

with this Resolution; and (ii) authorization of certain officials and employees of the City to take action on the City's behalf and to determine the method of purchase and sale of the 2022 Obligations and to negotiate, execute and deliver the 2022 Obligations and related Financing Documents;

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

**Section 1. Authorization of the 2022 Obligations.** The City authorizes the issuance, sale, execution and delivery of the 2022 Obligations, in one or more series, together or separately, from time to time, to be designated the "City of Bend, Oregon Full Faith and Credit Obligations, Series 2022" in an aggregate principal amount not to exceed \$5,800,000, to pay all or a portion of the costs of the Project. The 2022 Obligations may be issued in any combination of (1) tax-exempt obligations (the "Tax-Exempt Obligations") or (2) federally taxable obligations (the "Taxable Obligations"). The true interest cost on the 2022 Obligations issued shall not exceed five percent (5.00%) per annum for Tax-Exempt Obligations and the true interest cost shall not exceed six percent (6.00%) per annum for 2022 Obligations designated as Taxable Obligations. The terms and conditions for the purchase, sale, issuance, execution, delivery and administration of the 2022 Obligations shall be established consistent with the authorization of this Resolution.

**Section 2. Authorized Representative.** The City authorizes and directs the City Manager, Chief Financial Officer or their respective designees (each, an "Authorized Representative"), without further approval by the City Council, each acting individually, to act on behalf of the City and evaluate, negotiate, enter into, execute, deliver on behalf of the City the Financing Documents related to the sale, execution and delivery of the 2022 Obligations, as may in the judgment of such Authorized Representative be in the best interests of the City and to determine the terms of the 2022 Obligations in a manner consistent with and in furtherance of this Resolution, including as set forth in Section 5 herein.

**Section 3. Security.** The City pledges its full faith and credit and taxing powers as contemplated by ORS 287A.315 to the payment of the 2022 Obligations. The 2022 Obligations 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 2022 Obligations, subject to the limitations of 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 owners of the 2022 Obligations will not have a lien or security interest on any projects financed or refinanced with the proceeds of the 2022 Obligations.

**Section 4. Tax-Exempt Status and Covenant as to Arbitrage.** The City covenants to use the proceeds of any Tax-Exempt Obligations and the project financed or refinanced with the proceeds of such Tax-Exempt Obligations, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code") so that the interest components paid pursuant to the Tax-Exempt Obligations will not be

includable in gross income of the Registered Owners of such Tax-Exempt Obligations for federal income tax purposes. The City specifically covenants:

(a) To comply with the "arbitrage" provisions of Section 148 of the Code, and to pay any required rebates and penalties with respect to the Tax-Exempt Obligations;

(b) To operate the facilities financed or refinanced with the proceeds of the Tax-Exempt Obligations so that the Tax-Exempt Obligations are not "private activity bonds" under Section 141 of the Code;

(c) To comply with all applicable reporting requirements.

Each Authorized Representative is authorized and directed, on behalf of the City without further approval of the City Council, to enter into covenants on behalf of the City to maintain the tax-exempt status of the interest components of the Tax-Exempt Obligations.

**Section 5. Delegation for Establishment of Terms and Sale of the 2022 Obligations.** Pursuant to ORS 287A.300, each Authorized Representative, acting singly, is authorized and directed, on behalf of the City without further approval of the City Council to take or direct to be taken all such further actions as may be necessary, desirable or appropriate in the opinion of the Authorized Representative in connection with the 2022 Obligations or to carry out the purposes of this Resolution, including but not limited to:

(a) Evaluate and determine favorable terms and conditions for the purchase, sale, issuance, execution, delivery and administration of the 2022 Obligations and the Financing Documents, subject to a determination by the Authorized Representative that such terms are beneficial to the City to obtain good financing terms for the 2022 Obligations, including:

(1) Soliciting bids, including subsequent updated bids if necessary based on market conditions, from and selecting the method of purchase of the 2022 Obligations by a banking institution (the "Bank"), which may occur through a direct private placement with a Bank, a negotiated public sale with a Bank serving as underwriter, or a public, competitive offering of the 2022 Obligations for sale to a Bank;

(2) Negotiating, executing and delivering the Financing Agreement with the Bank, as purchaser or underwriter, to establish the terms and conditions for the purchase and sale of the 2022 Obligations, including, without limitation, the terms and conditions for the issuance of the 2022 Obligations, the principal and interest payment dates, redemption or prepayment provisions, defeasance provisions, registration, covenants for financial reporting and other covenants necessary and appropriate for the issuance of the 2022 Obligations;

(b) Designate all or any portion of the 2022 Obligations as Tax-Exempt Obligations or Taxable Obligations;

(c) Approve the form of the 2022 Obligations and take actions, if necessary, to qualify the 2022 Obligations for the book-entry system of The Depository Trust Company, and provide for the authentication, registration, payment, exchange and transfer of the 2022 Obligations;

(d) Execute and deliver the 2022 Obligations, the Financing Agreement, the Financing Documents, and any other agreements, certificates, documents and opinions required in connection with the purchase, sale, issuance, execution, delivery and administration of the 2022 Obligations;

(e) Enter into covenants regarding the use of the proceeds of the 2022 Obligations received by the City and the use of the projects refinanced by the 2022 Obligations to maintain the status of any 2022 Obligations designated as Tax-Exempt Obligations; and;

(f) Determine, if necessary, the form and content of the preliminary and final disclosure documents in connection with a public sale of the 2022 Obligations;

(g) Request and obtain ratings of the 2022 Obligations, if determined by the Authorized Representative to be in the best interest of the City and expend proceeds of the 2022 Obligations to pay for such ratings;

(h) Establish and fund a debt service reserve, if necessary or desirable, for the 2022 Obligations;

(i) If applicable, negotiate and establish, if necessary, the terms of and execute and deliver an undertaking to provide ongoing disclosure (the "Continuing Disclosure Certificate") for the benefit of owners of the 2022 Obligations that satisfies the requirements of Section (b)(5)(i) of the Securities and Exchange Commission Rule 15c2-12;

(j) If applicable, solicit proposals for services and/or select a paying agent and registrar for the 2022 Obligations;

(k) Execute and deliver a certificate specifying the actions taken pursuant to this Resolution and take such other actions and execute and deliver any other agreements, certificates and documents that an Authorized Representative determines are necessary to execute and deliver the Financing Agreement and to offer and sell the 2022 Obligations in accordance with this Resolution.

**Section 6. Appointment of Special Counsel and Financial Advisor.** The City hereby appoints Orrick, Herrington & Sutcliffe LLP of Portland, Oregon, as Special Counsel to the City with respect to the 2022 Obligations, and PFM Financial Advisors LLC as Financial Advisor to the City with respect to the 2022 Obligations.

**Section 7. Resolution to Constitute Contract.** In consideration of the purchase and acceptance of any or all of the 2022 Obligations by the owners, the provisions of this Resolution shall be part of the contract of the City with the owners and shall be deemed to be and shall constitute a contract between the City and the owners pursuant to ORS

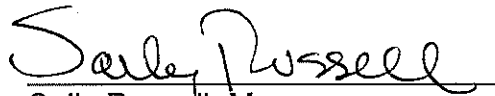
287A.315 and ORS 287A.325, or any successor statute. The covenants, pledges and representations contained in this Resolution, or in the closing documents executed in connection with the 2022 Obligations, including without limitation the City's covenants and pledges contained in Section 3, and the other 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 owners, all of which shall be of equal rank without preference, priority or distinction of any of such 2022 Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

**Section 8. Effective Date of Resolution.** This Resolution shall become effective immediately upon its adoption by the City Council.

**ADOPTED** by a vote of the Bend City Council on this 18<sup>th</sup> day of May 2022.

YES: Mayor Sally Russell  
Mayor Pro Tem Gena Goodman-Campbell  
Councilor Barb Campbell  
Councilor Melanie Kebler  
Councilor Anthony Broadman  
Councilor Megan Perkins  
Councilor Rita Schenkelberg

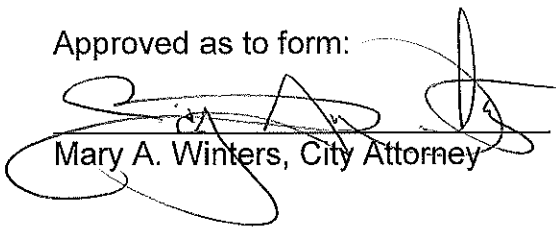
NO: none

  
Sally Russell, Mayor

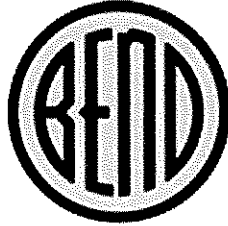
ATTEST:

  
Robyn Christie, City Recorder

Approved as to form:

  
Mary A. Winters, City Attorney





CITY OF BEND

**Council Policy on Discretionary Funding/Sponsorship  
of Community Programs, Services and Events**

**Policy No. CP007**

Adopted by City Council on May 18, 2022:

Reviewed by Legal Counsel:

\_\_\_\_\_  
Sally Russell, Mayor

\_\_\_\_\_  
Mary Alice Winters, City Attorney

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_



**COUNCIL POLICY ON DISCRETIONARY FUNDING/SPONSORSHIP OF COMMUNITY  
PROGRAMS, SERVICES AND EVENTS**

**POLICY NO. CP 007**

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## **PURPOSE:**

The City Council values and recognizes the importance of community programs, projects, and events that:

1. Advance Council-adopted goals, City-wide policies, and the City's strategic planning;
2. Promote the City of Bend;
3. Support non-profit organizations or individuals serving the community;
4. Are held for the general economic benefit of Bend's diverse business and cultural communities; and
5. Support the City's community and/or planning and neighborhood objectives.

Council desires to provide clear direction to the City Manager and City Departments so that the City exercises fair and equitable treatment of parties seeking grants, sponsorship, or other financial support from the City, and memorializes any organizations or individuals funded in an appropriate agreement.

This Policy will provide the basis for the use of discretionary funds within the current budget to fund such programs, services and events. Council adopts the following measures to improve transparency and accountability in the use of discretionary funding, and directs the City Manager to:

- Establish a vetting process to review each organization or individual considered for these discretionary funds to assess the integrity, compliance and track record of providing the services for which they may be selected to provide;
- Align support with the City strategic plans, mission, core values and priorities; and
- Publish a complete list of organizations or individuals receiving discretionary funds, including the amount and a brief description of how those funds will be used.

### **1. Policy Application.**

Discretionary funds may be allocated to non-profit 501 (c) organizations as defined by the IRS and/or registered with the State of Oregon, community-based organizations, or individuals, provided they meet the criteria and purpose of this Policy.



This Policy does not apply to organizations, such as the League of Oregon Cities, or Central Oregon Intergovernmental Council, which are governmental organizations or have a general governmental purpose. The City may provide discretionary monies to these organizations (such as membership dues) in keeping with its general municipal purpose and the benefits these organizations provide. This Policy does not apply to funds paid for the services of organizations that lobby for federal or state legislation on behalf of cities.

This Policy only applies to sponsorships or grants using budgeted Council discretionary community funds. This Policy does not apply to other sponsorship or grant programs at the City (e.g., CDBG).

## 2. Definitions.

A. *Sponsorship.* Funds provided to a non-profit organization or individual to support a specific event.

B. *Grant.* Funds provided to a non-profit organization or individual for a specific project or program.

## 3. Eligibility for Funding/Sponsorship.

The City intends to fund programs, projects, and events that align with Council goals. The intent is that the general public will receive some intrinsic civic, cultural, educational, entertainment, community or economic value from the program, project, or event.

## 4. Public Purpose.

All funds, however awarded, must be used for a public purpose. In general, a public purpose is defined as an activity or service that is open to all members of the public, regardless of race, creed, gender, sexual orientation, religious affiliation, etc., without restriction, and which does not promote a particular religion. This program does not allow support for individual gain, and is not intended to provide City support for a specific business purpose or general commercial enterprise.

## 5. Process for Sponsorship of Programs/Events.

A. The budget(s) for discretionary community funding pursuant to this Policy will be established by the City Council during the biennial budget process. The City Manager's Office (or department assigned) will be responsible for accounting for the community funding program, and will provide a complete list of funded organizations or individuals on the City's website. The list will include the funding amount and a brief description of how those funds will be used.

B. Sponsorship or grant applications will be regularly accepted and reviewed by the City Manager's Office based on this Policy. Approval of a sponsorship or grant is determined on a case-by-case basis related to the eligibility requirements and consistent



with the factors described in subsection (f), below, the purpose and goals of each program, service or event, and available funding.

C. Requests that meet the definition of a Sponsorship will be awarded by letter agreement on a template approved by the City Manager and City Attorney's Offices. Sponsorships may be awarded without City Attorney review.

D. Requests that meet the definition of a Grant will be awarded by grant agreement on a template approved by the City Manager and the City Attorney's Office. All grant agreements must be reviewed by the City Attorney's Office. The City will require proof of insurance and indemnification in accordance with City policy. The grant agreement will also describe the roles and responsibilities of the grantee, the duration of the agreement, and specifically articulating the goals and objectives of the relationship.

E. The authority of the City Manager to award grants or sponsorships is limited to \$10,000 to any individual or organization. Council approval is required for any individual grant or sponsorship exceeding \$10,000. The City Manager may not award more funds than are budgeted and adopted by Council. Additional amounts may be authorized by the City Council within the biennium consistent with Oregon local budget law.

F. Factors that may be considered include, but are not limited to the following:

- i. Measurable outcomes in alignment with City Council goals and strategic plans.
- ii. Cost versus benefits.
- iii. Compatibility of the program, service or event with this Policy.
- iv. Program or event planning and proposed organization's past history with the City's grant and/or sponsorship programs.
- v. Level of community partner's contribution to the project and organizational capacity.
- vi. Demonstrated public support for the service or program.
- vii. Impact to City staff, operations or facilities, and risk to the City.

G. City requirements for events must be followed according to City policies and the Bend Municipal Code. Failure to comply with City permitting requirements may result in the organization being ineligible for future funding or the return of funds granted under this Policy.

H. All grant and sponsorship recipients must comply with applicable federal, state, and local law.



I. Sponsorship or grant approval in one year does not imply or guarantee approval in subsequent years.

J. The City Manager means the City Manager or their designee. The City Manager may adopt implementing rules or procedures as necessary to implement the purpose and intent of this Policy.

**6. Official City Events.**

Council has determined that certain events are “official” City sponsored events, and as such, the City will include them for funding in the biennial budget process. The budgeted amounts for these events do not require additional approval under this Policy. Official City-sponsored events are events of community-wide interest, history, and value, and include the Christmas Parade, Juneteenth, Central Oregon Pride, the 4<sup>th</sup> of July Parade, Welcoming Week, and the Veteran's Day Parade. Funding may include event permitting, staff costs, traffic control plans, and other costs related to the event as approved by the City Manager. Separate events (such as Earth Day) may also be funded by City Departments for City outreach and other functions, separate from this Policy.

Other events may seek sponsorship under this Policy from the Council community discretionary budget appropriation.

**7. Not Eligible.**

The following organizations are not eligible for grant or sponsorship funding under this Policy:

A. Any religious, church, creed or sectarian organization or individual to promote religious purposes. Religious organizations are not excluded from receiving grants or sponsorships; however, the purpose of the program or service must be as set forth in the purpose section of this Policy.

B. Political organizations and/or individual campaigns.

C. Organizations or individuals that discriminate on the basis of age, race, sex, sexual or gender orientation, marital status, disability or national origin.

D. For-profit organizations that do not serve a public purpose.