

RESOLUTION NO. 3363

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEND, OREGON, AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF GENERAL OBLIGATION BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$65,800,000 TO FINANCE TRAFFIC AND SAFETY IMPROVEMENTS CITYWIDE; CLASSIFYING THE AD VALOREM TAX LEVY AS TAXES TO PAY PRINCIPAL AND INTEREST ON GENERAL OBLIGATION INDEBTEDNESS EVIDENCED BY THE BONDS AND PROVIDING FOR NOTICE OF ADOPTION OF THIS RESOLUTION; DESIGNATING AN AUTHORIZED REPRESENTATIVE; DELEGATING RESPONSIBILITIES; AND RELATED MATTERS.

Findings:

1. The City of Bend (the "City") is authorized pursuant to the Constitution and Statutes of the State of Oregon, including Oregon Revised Statutes ("ORS") Chapter 287A, to issue general obligation bonds to finance capital construction and improvements.
2. On August 19, 2020, the City Council (the "City Council") of the City adopted Resolution No. 3217 authorizing submission to the voters of the City at a measure election on November 3, 2020 (the "Election"), the question of contracting general obligation bonded indebtedness in an aggregate principal amount not to exceed \$190,000,000 to finance traffic flow, east-west connections, and neighborhood safety improvements citywide (the "Project").
3. The Election was duly and legally held on November 3, 2020, and the elections officer of Deschutes County, Oregon has notified the City that the measure election was approved by a majority vote.
4. Pursuant to the ballot title and the provisions of Oregon law, including ORS Chapter 287A, the City is authorized to issue general obligation bonds to finance the Project and to pay bond issuance costs;
5. The City issued its General Obligation Bonds, Series 2022, in the aggregate principal amount of \$32,880,000 on March 31, 2022, to finance a portion of the Project;
6. The City may incur expenditures in connection with the Project (the "Expenditures") and wishes to declare its official intent to reimburse itself with the proceeds of the 2024 Bonds (as defined below) for Expenditures in conformity with the requirements of United States Treasury Regulations Section 1.150-2;
7. It is financially feasible and in the best interest of the City to issue general obligation bonds (the "2024 Bonds") to (i) finance a portion of the Project, and (ii) pay costs of issuance of the 2024 Bonds.

8. The City adopts this Resolution (i) to provide the terms under which the 2024 Bonds will be sold, executed and delivered; (ii) to designate an authorized representative of the City and delegate responsibilities; and (iii) to classify the ad valorem taxes levied to pay debt service on the 2024 Bonds as not being subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution.

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

Section 1. General Obligation Bonds Authorized. The City authorizes the issuance, sale, execution and delivery of 2024 Bonds, in one or more series, from time to time, in an aggregate principal amount not to exceed \$65,800,000 to finance the costs of the Project and to pay costs of issuance of the 2024 Bonds. Costs of issuance of the 2024 Bonds may include, without limitation, the funding of any required reserves and payment of costs in connection with obtaining a Credit Enhancement Device (a "Credit Enhancement Device" as defined in ORS chapter 287A) for the 2024 Bonds, if beneficial to the City. The 2024 Bonds may be issued such that interest on the 2024 Bonds is tax-exempt or federally taxable, as designated by the Authorized Representative (defined below).

The 2024 Bonds shall initially be subject to a book-entry only system of ownership and transfer as provided for in a Bond Declaration ("Bond Declaration") to be executed and delivered on the date the 2024 Bonds are delivered (the "Delivery Date"), which shall establish the terms of the 2024 Bonds consistent with this Resolution.

Section 2. Designation of Authorized Representative. The City Council designates each of the City Manager, the Chief Financial & Administrative Officer, Finance Director or each of their respective designees (collectively, the "Authorized Representative"), to act on behalf of the City and determine the terms of the 2024 Bonds as provided for in this Resolution.

Section 3. Security. The 2024 Bonds are general obligations of the City. The full faith and credit and taxing powers of the City are pledged to the successive owners of each of the 2024 Bonds ("Owners" or "Bondowners") for the punctual payment of such obligations when due. The City covenants with the Bondowners to levy annually a direct ad valorem tax upon all of the taxable property within the City without limitation as to rate or amount, and outside of the limitations of sections 11 and 11b, Article XI of the Oregon Constitution, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes, to pay interest accruing and the principal maturing on the 2024 Bonds promptly when and as they become due.

Section 4. Form of Bonds. The 2024 Bonds shall be prepared in book-entry only form by Bond Counsel in substantially the form approved by the Authorized Representative and shall be attached to the Bond Declaration.

Section 5. Execution of Bonds. The 2024 Bonds shall be executed on behalf of the City with the manual or facsimile signature of the City Manager and attested to by the manual or facsimile signature of an Authorized Representative of the City.

Section 6. Book-Entry System. The 2024 Bonds shall be initially issued in the form of a single fully registered certificate, one for each maturity of the 2024 Bonds, held in a book-entry only system through The Depository Trust Company, New York, New York (“DTC”). The 2024 Bonds shall be registered in the name of Cede & Co., as nominee for DTC. The City has entered into a Blanket Issuer Letter of Representations representing that it will comply with the requirements stated in DTC’s Operational Arrangements as they may be amended from time to time. All other provisions with respect to DTC shall be set forth in the Bond Declaration.

Section 7. Redemption and Notice of Redemption of Bonds. The 2024 Bonds may be subject to optional redemption and mandatory redemption prior to maturity as determined by the Authorized Representative pursuant to this Resolution and as set forth in the Bond Declaration, including provisions with respect to the form, content and delivery of notices of redemption.

Section 8. Tax-Exempt Status of Bonds. The City covenants to use the proceeds of the 2024 Bonds that are designated as tax-exempt (the “Tax-Exempt Bonds”), and the facilities financed or refinanced with the Tax-Exempt Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the “Code”), so that interest paid on any Tax-Exempt Bonds will not be includable in gross income of the Bondowners 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 rebates to the United States on the gross proceeds of the Tax-Exempt Bonds;
- (b) to operate the facilities financed and refinanced with the proceeds of the 2024 Bonds so that the Tax-Exempt Bonds are not “private activity bonds” under Section 141 of the Code; and
- (c) comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the City to maintain the tax-exempt status of the Tax-Exempt Bonds.

Section 9. Delegation for Establishment of Terms and Sale of the 2024 Bonds. The Authorized Representative is hereby authorized, on behalf of the City and without further action of the City Council, to:

- (a) negotiate, execute and deliver a Bond Declaration that among other things, sets forth the final terms, covenants, representations and agreements determined by the Authorized Representative to be necessary and appropriate in connection with the issuance, sale, execution and delivery of the 2024 Bonds and consistent with the intents and purposes set out in this Resolution;
- (b) establish the dated date, principal and interest payment dates, principal amounts, optional and mandatory redemption provisions, if any, interest

rates, and denominations, defeasance provisions, and all other terms for the 2024 Bonds;

(c) appoint a paying agent and Bond Registrar for the 2024 Bonds;

(d) establish funds and accounts under the Bond Declaration into which the proceeds of the 2024 Bonds shall be deposited, which funds and accounts shall be continually maintained, except as otherwise provided, so long as the 2024 Bonds remain unpaid;

(e) approve the form of the 2024 Bonds and take such actions as are necessary to qualify the 2024 Bonds for the Book-Entry System of DTC;

(f) evaluate any proposals from providers of Credit Enhancement Devices for the 2024 Bonds, obtain a Credit Enhancement Device for the 2024 Bonds and execute and deliver agreements related to such Credit Enhancement Device and/or include representations, agreements and covenants in the 2024 Bonds or the Bond Declaration with respect to such Credit Enhancement Device;

(g) obtain one or more ratings on the 2024 Bonds if determined by the Authorized Representative to be in the best interest of the City, and expend Bond proceeds to pay the costs of obtaining such rating;

(h) authorize the publication of a Notice of Adoption of Resolution Classifying Taxes pursuant to Section 10;

(i) enter into covenants regarding the use of the proceeds of Tax-Exempt Bonds and the Project financed and refinanced with the proceeds of such Tax-Exempt Bonds, to maintain the tax-exempt status of the Tax-Exempt Bonds;

(j) designate a federally taxable series of 2024 Bonds, if necessary and beneficial to the City, and enter into any necessary covenants in connection thereto, including, without limitation, covenants regarding the use of the proceeds of the 2024 Bonds and the Project financed with the proceeds of such federally taxable 2024 Bonds;

(k) approve of and authorize the distribution of preliminary and final official statements for the 2024 Bonds;

(l) approve, execute and deliver a Continuing Disclosure Certificate pursuant to SEC Rule 15c2-12, as amended;

(m) establish the level of original issue premium/discount with respect to the issuance of the 2024 Bonds;

(n) approve, execute and deliver closing documents and certificates in connection with the issuance of the 2024 Bonds; and

(o) designate one or more series of the 2024 Bonds as green bonds, social impact bonds or another similar designation, and engage a third-party verification firm in connection with such designation;

(p) approve the final form of and cause a notice of bond sale for a competitive sale, substantially in the form approved by the Authorized Representative to be published electronically or otherwise, and award the successful bid or reject the bids for the 2024 Bonds, consistent with the provisions of this Resolution; or if determined by the Authorized Representative to be in the best interest of the City, negotiate the terms of the 2024 Bonds with an underwriter selected by the Authorized Representative and enter into a bond purchase agreement for the sale of the 2024 Bonds.

(q) execute and deliver a certificate specifying the action taken by the Authorized Representative pursuant to this Section 9, and any other certificates, documents or agreements that the Authorized Representative determines are desirable to issue, sell, deliver and administer the 2024 Bonds in accordance with this Resolution.

Section 10. Resolution Classifying Taxes. The City hereby classifies the taxes levied to pay principal and interest on the 2024 Bonds as not subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution. This Resolution constitutes a resolution authorizing issuance of bonded indebtedness in the form of the 2024 Bonds that includes a classification of bonded indebtedness, in the form of the 2024 Bonds, as not subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution for purposes of ORS 305.583 and ORS 310.145. The Authorized Representative is hereby authorized to cause to be published a notice in a newspaper of general circulation in the City of the City's adoption of this Resolution, and classification of taxes levied to pay principal and interest on the 2024 Bonds as not being subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution in substantially the form of the notice as shown on Exhibit A attached hereto, within 15 days after passage of this Resolution and which meets the requirements of ORS 305.583.

Section 11. Declaration of Official Intent. The City hereby declares its official intent to reimburse itself with proceeds of the 2024 Bonds for Expenditures paid by it prior to the issuance of the 2024 Bonds.

Section 12. Appointment Of Bond Counsel and Financial Advisor. The City appoints Orrick, Herrington & Sutcliffe LLP as bond counsel to the City relating to issuance of the 2024 Bonds and appoints PFM Financial Advisors LLC, as financial advisor to the City relating to issuance of the 2024 Bonds.

Section 13. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the 2024 Bonds 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. The covenants, pledges, representations and agreements contained in this Resolution or in the closing


documents executed in connection with the 2024 Bonds, including without limitation the City's covenants and pledges contained in Section 3, and the other covenants and agreements set forth in this Resolution 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 2024 Bonds over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 14. Effective Date of Resolution. This Resolution shall take effect immediately upon adoption by the City Council.

Adopted by a vote of the Bend City Council on February 21, 2024.

Yes: Mayor Melanie Kebler
Councilor Barb Campbell
Councilor Anthony Broadman
Councilor Ariel Méndez
Councilor Mike Riley

NO: none



Melanie Kebler, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

EXHIBIT A

NOTICE OF ADOPTION OF RESOLUTION CLASSIFYING TAXES AND SPECIFYING THE AUTHORIZED USES OF BOND PROCEEDS

The City of Bend, Oregon (the "City") hereby gives notice that on February 21, 2024 the City Council of the City adopted its Resolution No. [] (the "Resolution"). The Resolution classifies the ad valorem taxes to be levied upon all of the taxable property within the City for the purpose of paying principal and interest on the City's \$65,800,000 aggregate principal amount of its general obligation bonded indebtedness to be issued in one or more series, from time to time, approved by the legal voters of the City at the election held November 3, 2020, as not being subject to the limits of sections 11 and 11b, Article XI of the Oregon Constitution. Complete copies of the Resolution may be obtained by contacting the City Recorder. The Office of the City Recorder is located at 710 N.W. Wall Street, Bend, Oregon 97703, Telephone: (541) 388-5505. Judicial review of the City's classification of such taxes and specification of authorized uses may be sought within 60 days of the date of the Resolution pursuant to ORS 305.583.

This Notice is published pursuant to ORS 305.583 and ORS 310.145.

CITY OF BEND, OREGON

Published: [], 2024, in *The Bulletin*.