

BEFORE THE CITY OF CANNON BEACH

AUTHORIZING THE EXECUTION) RESOLUTION NO. 24-06
AND DELIVERY OF FULL FAITH)
AND CREDIT OBLIGATIONS IN AN)
AMOUNT NOT TO EXCEED \$33,650,000)
TO FINANCE CAPITAL PROJECTS;)
DESIGNATING AN AUTHORIZED)
REPRESENTATIVE AND SPECIAL)
COUNSEL; AND RELATED MATTERS.)

WHEREAS, City of Cannon Beach, Clatsop County, Oregon (the “City”) is authorized by Oregon Revised Statutes (“ORS”) Section 271.390 and 287A.315 to enter into financing agreements to finance real and personal property which the City determines is needed, (ii) to pledge its full faith and credit, and (iii) pay the costs of issuance of such financing agreements; and

WHEREAS, the Charter of the City does not (1) prohibit the City from entering into a financing agreement and pledging its full faith and credit as security for a financing agreement, nor (2) require a non-appropriation clause to be included in a financing agreement; and

WHEREAS, the City has determined that capital projects are needed including (i) updating, remodeling, and equipping the former elementary school property to serve primarily as a tourism-related facility with tangential benefits as a community center, (ii) constructing, remodeling, furnishing, and equipping a new city hall, and (iii) constructing, furnishing, and equipping a new police station, and related capital projects (collectively, the “Projects”); and

WHEREAS, the estimated weighted average life of the financing agreement will not exceed the estimated dollar weighted average life of the Projects; and

WHEREAS, the City anticipates incurring expenditures (the “Expenditures”) to finance the costs of the Projects and wishes to declare its official intent to reimburse itself for any Expenditures it may make from City general funds on the Projects from the proceeds of a financing agreement, the interest on which may be excluded from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the City desires to authorize the execution and delivery of a financing agreement(s) to finance the Projects and related matters.

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF CANNON BEACH, CLATSOP COUNTY, OREGON AS FOLLOWS:

Section 1. Authorization. The Council hereby authorizes:

A. Financing Agreement. The City authorizes the execution and delivery of one or more full faith and credit financing agreements (the “Financing Agreement”) in a form satisfactory to the Authorized Representative (defined herein). The aggregate principal amount of the Financing Agreement may not exceed \$33,650,000 and the proceeds shall be used to finance the Projects. The Financing Agreement may be issued as taxable and/or tax-exempt obligations at a true effective rate(s) as determined by the Authorized Representative and shall mature on date(s) set by the Authorized Representative.

B. Method of Sale. As determined by the Authorized Representative, the Financing Agreement may be entered into directly with a lender (a “Private Placement”) and obligations representing the principal amount payable under the Financing Agreement may be sold to an underwriter by negotiated or competitive sale (a “Public Offering”).

C. Private Placement. The Financing Agreement may be evidenced by a note and entered into with a lender(s) as determined by the Authorized Representative.

D. Public Offering. The Financing Agreement may be issued through a Public Offering. If the Financing Agreement is issued through a Public Offering, the City authorizes the issuance and sale of full faith and credit obligations (the “Obligations”) which shall be issued by the escrow agent, for and on behalf of the City, representing the principal amount payable under the Financing Agreement. The Obligations may be issued in one or more series, shall be issued at a true effective rate as determined by the Authorized Representative and shall mature on dates set by the Authorized Representative. The City authorizes the execution and delivery of one or more escrow agreements between the City and the escrow agent (the “Escrow Agreement”), in a form satisfactory to the Authorized Representative, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under a Financing Agreement, and evidencing the right of the escrow agent to receive the City’s Financing Payments under a Financing Agreement.

Section 2. Security.

The Financing Agreement shall be payable from the designated funds which are lawfully available and the general, non-restricted revenues of the City and other funds which may be available for that purpose, including taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon. The obligation of the City to make payments under the Financing Agreement shall be a full faith and credit obligation of the City, not subject to annual appropriation. The Financing Agreement shall not be secured by any real or personal property of the City. The City reserves the right to issue additional full faith and credit obligations of the City.

Section 3. Designation of Authorized Representative.

The City hereby authorizes the City Manager, the Finance Director, or the designee of either one of them (the “Authorized Representative”) to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement as delegated herein.

Section 4. Delegation of Final Terms and Additional Documents.

The Authorized Representative is authorized, on behalf of the City, to:

A. determine the method of sale, determine the provisions of the notice of sale if sold at a competitive sale, act upon bids received, negotiate the terms of, and execute and deliver a purchase agreement if sold at a negotiated sale, and negotiate the terms of, and execute and deliver documents if privately placed with a lender;

B. establish the maturity and interest payment dates, dated dates, principal amounts, capitalized interest (if any), optional and/or mandatory redemption provisions, interest rates, draw-down provisions, amortization schedules, covenants, fees, denominations, defeasance requirements, denominations, and all other terms under which the Financing Agreement and Obligations shall be issued, sold, executed, and delivered;

C. negotiate the terms and approve of the Financing Agreement and the Escrow Agreement, if applicable, as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement and the Escrow Agreement;

D. deem final, approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Obligations;

E. determine whether the Obligations shall be Book-Entry certificates and to take such actions as are necessary to qualify the Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations;

F. apply for ratings for the Obligations and determine whether to purchase municipal bond insurance or other credit enhancement, negotiate and enter into agreements with providers of credit providers, and expend proceeds to pay credit enhancement fees;

G. determine if the Financing Agreement will be issued on a tax-exempt basis and/or a taxable basis; and all other terms of the Financing Agreement and approve, execute and deliver the Financing Agreement;

H. designate the Financing Agreement and the Obligations as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”) if they qualify for such designation;

I. approve, execute and deliver a Tax Certificate for that portion of the Financing Agreement issued on a tax-exempt basis;

J. approve, execute and deliver a continuing disclosure certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, §240.15c2-12) for each series of Obligations;

K. engage the services of a lender, underwriter, escrow agents, financial advisors, trustees and any other professionals whose services the Authorized Representative determines are necessary or desirable for the Financing Agreement or Obligations;

L. determine which fund or funds are available to pay the Financing Agreement; and

M. execute and deliver a certificate specifying the action taken pursuant to this Resolution, and any other documents, agreements or certificates that the Authorized Representative determines are necessary and desirable to issue, sell and deliver the Financing Agreement and Obligations in accordance with this Resolution; and

N. take any other actions which the Authorized Representative determines are necessary or desirable to finance the Projects in accordance with this Resolution.

Section 5. Preservation of Tax Exemption for Interest on Financing Agreement.

The City covenants that it will take all actions necessary to prevent interest on a tax-exempt Financing Agreement from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of a tax-exempt Financing Agreement or other funds of the City treated as proceeds of the Financing Agreement at any time during the term of the Financing Agreement which will cause interest on the Financing Agreement to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), is applicable to the Financing Agreement, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Financing Agreement, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Financing Agreement from being included in gross income for federal income tax purposes.

Section 6. Appointment of Paying Agent and Registrar.

The City appoints Zions Bancorporation, National Association as Paying Agent and Registrar for the Obligations. The Authorized Representative is authorized to negotiate and execute on behalf of the City the Paying Agent and Registrar Agreement. In addition, the City requests and authorizes the Paying Agent and Registrar to execute the Obligations.

Section 7. Appointment of Special Counsel.

The City appoints Foster Garvey P.C. as special counsel to the City for the issuance of the Financing Agreement and the Obligations.

Section 8. Appointment of Underwriter/Placement Agent or Lender.

The Authorized Representative is authorized to appoint an underwriter/placement agent and/or lender for the Financing Agreement.

Section 9. Appointment of Municipal Advisor.

The City appointed D.A. Davidson & Co. as municipal advisor to the City in connection with the issuance of the Financing Agreement and Obligations.

Section 10. Continuing Disclosure.

The City covenants and agrees to comply with and carry out all of the provisions of the Continuing Disclosure Agreement which may be negotiated with the underwriter. Notwithstanding any other provision of this Resolution, failure by the City to comply with the Continuing Disclosure Agreement will not constitute an event of default; however, any owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section and the Continuing Disclosure Certificate.

Section 11. Preliminary and Final Official Statement.

The City may prepare or cause to be prepared a preliminary official statement for the Obligations which shall be available for distribution to prospective purchasers. In addition, an official statement may be prepared and shall be ready for delivery to the purchasers of the Obligations no later than the seventh (7th) business day after the sale of the Obligations. When the City determines that the final official statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, the Authorized Representative is authorized to certify the accuracy of the official statement on behalf of the City.

Section 12. Closing of the Financing Agreement.

The Authorized Representative is authorized to negotiate the terms and conditions of a term sheet or commitment letter in the case of a Private Placement or a purchase agreement in the case of a Public Offering. The Authorized Representative is authorized to execute the term sheet, commitment letter, and/or the purchase agreement, as the case may be, for and on behalf of the City and to execute such additional documents, including a Tax Certificate, and to perform any and all other things or acts necessary for the sale and delivery of the Financing Agreement or Obligations as herein authorized. Such acts of the Authorized Representative are for and on behalf of and are authorized by the Council of the City.

Section 13. Resolution to Constitute Contract.

In consideration of the purchase and acceptance of any or all of the Financing Agreement or Obligations by those who shall own the same from time to time (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 warranties contained in this Resolution or in the closing documents executed in connection with the Financing Agreement or Obligations and the other covenants and agreements herein set forth 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 Financing Agreement and Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 14. Bank Designation.

For purposes of paragraph (3) of Section 265(b) of the Code, the Authorized Representative is authorized to designate a Financing Agreement as a “qualified tax-exempt obligation” provided such Financing Agreement does not constitute a private activity bond as defined in Section 141 of the Code and not more than \$10,000,000 aggregate principal amount of obligations, the interest on which is excludable under Section 103(a) of the Code from gross income for federal income tax purposes (excluding, however, private activity bonds other than qualified 501(c)(3) bonds) including such Financing Agreement have been or reasonably expects to be issued by the City, including all subordinate entities of the City, if any, during the current calendar year in which such Financing Agreement is entered into.

Section 15. Intent to Reimburse.

The City hereby declares its official intent to reimburse its general fund with the proceeds of the Obligation proceeds for any of the Expenditures incurred by it prior to the issuance of the Obligations.

Section 16. Post Issuance Compliance Procedures.

The Authorized Representative is authorized to prepare procedures regarding post issuance compliance related to obligations of the City.

Section 17. Effective Date.

This resolution shall take effect on the date of its adoption.

This resolution is adopted by the Council of the City of Cannon Beach this 16 day of April 2024, by the following roll call vote:

YEAS: Councilors Hayes, McCarthy, Ogilvie, Kerr and Mayor Knop
NAYS: None
EXCUSED: None



Barb Knop, Mayor

ATTEST:



Bruce St. Denis, City Manager