

RESOLUTION NO. 2866

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BEND, OREGON, AUTHORIZING THE EXECUTION AND DELIVERY OF ONE OR MORE FINANCING AGREEMENTS, ESCROW AGREEMENTS AND RELATED SALE DOCUMENTS; AUTHORIZING THE EXECUTION AND DELIVERY OF FULL FAITH AND CREDIT REFUNDING OBLIGATIONS, IN ONE OR MORE SERIES, TO CURRENTLY REFUND ONE OR MORE SERIES OF OUTSTANDING FULL FAITH AND CREDIT OBLIGATIONS AND/OR SEWER REVENUE BONDS OF THE CITY IN AN AGGREGATE PRINCIPAL AMOUNT SUFFICIENT TO ACHIEVE DEBT SERVICE SAVINGS; AUTHORIZING THE EXECUTION AND DELIVERY OF FULL FAITH AND CREDIT OBLIGATIONS IN AN AGGREGATE PRINCIPAL AMOUNT NOT EXCEEDING \$2,000,000 TO FINANCE THE COST OF EQUIPMENT; 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") Section 271.390, the laws of the State of Oregon 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 2002 (the "2002 Obligations") pursuant to ORS Section 271.390 and Resolution No. 2347 adopted by the City Council on May 1, 2002.

(c) The City previously authorized the sale, execution, issuance and delivery of its Sewer Revenue Bonds, Series 2002 (the "2002 Sewer Bonds") pursuant to Resolution No. 2122 approved by the City Council on September 7, 1994, and Resolution Nos. 2368 and 2377 approved by the City Council on July 17, 2002 and October 2, 2002, respectively.

(d) The City is authorized pursuant to the Oregon Constitution and ORS Sections 287A.360 through 287A.380, or any successor statute, to issue refunding obligations to currently refund all or any portion of the 2002 Obligations and the 2002 Sewer Bonds (hereinafter collectively referred to as the "Refunded Obligations") to achieve debt service savings.

(e) 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 Refunded Obligations would provide debt service savings to the City.

(f) The City desires to take advantage of current interest rate savings to refund all or any portion of the Refunded Obligations and to authorize the sale, issuance and delivery of full faith and credit refunding obligations in an aggregate principal

amount not to exceed the amount necessary to accomplish that purpose (the "Refunding Obligations").

(g) It is in the best interests of the City to finance the purchase of certain street maintenance equipment.

(h) The City deems it necessary to authorize the sale, issuance and delivery of full faith and credit obligations in an aggregate principal amount not to exceed \$2,000,000 to finance the purchase of certain street maintenance equipment pursuant to ORS 271.390 (the "New Obligations" and together with the Refunding Obligations, the "2012 Obligations").

(i) It is in the best interests of the City to authorize the execution and delivery of one or more tax-exempt financing agreements (collectively, the "Financing Agreement"), each between the City and The Bank of New York Mellon Trust Company, N.A. (the "Escrow Agent"), and one or more escrow agreements (collectively, the "Escrow Agreement"), each between the City and the Escrow Agent, and other financing agreements or related documents (together with the Financing Agreement and Escrow Agreement, collectively, the "Financing Documents"), that provide the terms for the execution, delivery and sale of the 2012 Obligations in the form of certificates of participation in the Financing Agreement to be executed by the Escrow Agent.

(j) The City intends to use the proceeds received under the Financing Agreement to finance all or a portion of the following projects (collectively, the "Project"):

(1) Current refunding of all or a portion of the City's outstanding 2002 Obligations if, under current market conditions, such refunding would provide debt service savings to the City;

(2) Current refunding of all or a portion of the City's outstanding 2002 Sewer Bonds if, under current market conditions, such refunding would provide debt service savings to the City;

(3) Finance the purchase of certain street maintenance equipment deemed necessary by the City; and

(4) Costs of issuance of the 2012 Obligations.

(k) The City anticipates incurring expenditures (the "Expenditures") in connection with the Project and wishes to declare its official intent to reimburse itself with the proceeds of the New Obligations for Expenditures incurred in connection with the Project in conformity with the requirements of United States Treasury Regulations Section 1.150-2.

(l) The City adopts this Resolution (i) to provide the terms under which the City may sell the 2012 Obligations through a negotiated sale or through a public competitive sale process and enter into the Financing Documents; (ii) to provide the terms under which the Refunding Obligations may be issued, subject to market

conditions and debt service savings to the City; (iii) to provide the terms of execution, delivery and sale of the 2012 Obligations, in one or more series, evidencing and representing the payment obligations of the City under the Financing Agreement; and (iv) 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 2012 Obligations and Related Agreements.

2012 Obligation Documents. The City authorizes the execution and delivery of the Financing Agreement, the Escrow Agreement, and one or more Escrow Deposit Agreements (collectively, the "Escrow Deposit Agreement"), each between the City and an escrow deposit agent (the "Escrow Deposit Agent"), and any related Financing Documents.

2012 Obligations. The City authorizes the execution and delivery of the New Obligations, in one or more series, in an aggregate principal amount not to exceed Two Million Dollars (\$2,000,000). The City authorizes the execution and delivery of the Refunding Obligations, in one or more series, in an aggregate principal amount not exceeding the amount necessary to effect the refunding of the Refunded Obligations and to pay costs of issuance allocable to the Refunding Obligations, provided such amount does not exceed the amount determined by the Authorized Representative (as defined in Section 2) necessary to achieve debt service savings. If the Authorized Representative determines to not issue the Refunding Obligations, the New Obligations may still be issued. If the Authorized Representative determines it to be in the best interests of the City, the 2012 Obligations may be issued as a single series of full faith and credit obligations that includes both the New Obligations and the Refunding Obligations. The proceeds of the 2012 Obligations received by the City pursuant to the terms of the Financing Agreement and the Escrow Agreement shall be used to pay all or a portion of the costs of the Project. The true interest cost of the 2012 Obligations shall not exceed 4% per annum.

The 2012 Obligations shall be subject to a book-entry only system of ownership and transfer as provided in the Financing Documents.

The remaining terms of the 2012 Obligations and the Financing Documents relating to the sale, execution and delivery of the 2012 Obligations shall be established as provided in Section 7.

The City authorizes the 2012 Obligations to be sold by negotiated sale or by a public competitive sale and delegates to the Authorized Representative the authority to establish the terms for the sale consistent with this authorization and as set forth in Sections 7 and 8.

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 Agreement, the Escrow Agreement, the Escrow Deposit Agreement and additional Financing Documents related to the sale, execution and delivery of the 2012 Obligations and to determine the remaining terms of the 2012 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 registered owners of the 2012 Obligations will not have a lien or security interest on the Project financed with the proceeds of the Financing Agreement.

Section 4. Form of 2012 Obligations. The 2012 Obligations shall be prepared in book-entry only form by Special Counsel in substantially the form approved by the Authorized Representative and the Escrow Agent. The 2012 Obligations may be printed or typewritten. The obligations shall be subject to authentication, registration, payment, exchange and transfer as provided in the Financing Documents.

Section 5. Optional and Mandatory Prepayment. Amounts payable by the City under the Financing Agreement and amounts payable under the 2012 Obligations may be subject to optional prepayment and mandatory 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.

(a) 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 2012 Obligations will not be includable in gross income of the Registered Owners of such 2012 Obligations for federal income tax purposes. The City specifically covenants:

(1) To comply with "arbitrage" provisions of Section 148 of the Code, and to pay any required rebates and penalties; and

(2) To operate the facilities financed or refinanced with the proceeds of the 2012 Obligations so that neither the 2012 Obligations, the 2002 Obligations nor the 2002 Sewer Bonds are "private activity bonds" under Section 141 of the Code; and

- (3) To comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the interest components of the 2012 Obligations.

(b) The City declares its official intent to use proceeds of the New Obligations to reimburse Expenditures. This declaration is made solely for purposes of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations. This declaration does not obligate the City to make any expenditure, incur any indebtedness or proceed with the Project.

Section 7. Delegation for Establishment of Terms and Sale of the 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 series and maturities of the Refunded Obligations to be refunded, irrevocably call for prepayment or redemption, as applicable, of those maturities of the Refunded Obligations selected for refunding with the proceeds of the Refunding Obligations on the earliest date those maturities are subject to prepayment or redemption, as applicable, and cause notice of defeasance and notice of prepayment or redemption, as applicable, to be given as required by the terms of the Refunded Obligations, provided that the Authorized Representative determines that the refunding will provide debt service savings;

(b) Establish series designations, the principal and interest component payment dates, principal component amounts, optional and mandatory prepayment provisions, if any, interest component amounts, premium and/or discount, if any, denominations and all other terms for the Financing Agreement and the 2012 Obligations;

(c) Establish the method of sale of the 2012 Obligations as authorized in Section 1, and if the 2012 Obligations are sold on a negotiated basis, negotiate, execute and deliver a bond purchase contract in the form approved by the Authorized Representative and other necessary agreements, certificates or sale documents, or if the 2012 Obligations are sold by public competitive sale, approve the final form of and cause an Official Notice of Obligation Sale (the "Notice") for a competitive sale, substantially in the form approved by an Authorized Representative to be published electronically; award the successful bid or reject the bids for the 2012 Obligations, consistent with the provisions of this Resolution;

(d) Make any covenants necessary or desirable to obtain good financing terms on the 2012 Obligations with respect to the pledge of the City's full faith and credit to secure the 2012 Obligations;

(e) Negotiate the terms of, and execute and deliver the Financing Agreement, the Escrow Agreement, the Escrow Deposit Agreement and any other Financing Documents;

- (f) Appoint the Escrow Deposit Agent for the Refunded Obligations;
- (g) Approve, execute and deliver the Escrow Deposit Agreement providing for the prepayment and defeasance of all or a portion of the Refunded Obligations and other agreements required to fund one or more irrevocable escrow deposit accounts (collectively, the "EDA Accounts") with non-callable direct and general obligations of the United States of America;
- (h) Appoint a certified public accounting firm with respect to the prepayment and defeasance of the Refunded Obligations to determine the sufficiency of the EDA Accounts and to cause to be delivered a verification report of an independent nationally recognized certified public accountant stating the adequacy of the EDA Accounts;
- (i) Provide for any necessary prepayment notices to municipal bond insurers providing municipal bond insurance policies or reserve credit facility policies for the Refunded Obligations;
- (j) Approve and authorize the preparation and distribution of preliminary and final official statements relating to the 2012 Obligations;
- (k) Obtain ratings on the 2012 Obligations if determined by the Authorized Representative to be in the best interest of the City and expend 2012 Obligation proceeds to pay for the ratings;
- (l) Approve the form of the 2012 Obligations and take actions necessary to qualify the 2012 Obligations for the book-entry system of The Depository Trust Company ("DTC");
- (m) Approve, execute and deliver a Continuing Disclosure Certificate pursuant to the Securities and Exchange Commission Rule 15c2-12;
- (n) Approve, execute and deliver closing documents and certificates relating to the sale of the 2012 Obligations and the execution and delivery of the 2012 Obligations, the Financing Agreement, the Escrow Agreement, the Escrow Deposit Agreement and the other Financing Documents;
- (o) Enter into covenants regarding the use of the proceeds of the 2012 Obligations received by the City pursuant to the Financing Agreement and the use of the Project to maintain the tax-exempt status of the 2012 Obligations; and
- (p) 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 Financing Agreement, Escrow Agreement, Escrow Deposit Agreement and to sell and deliver the 2012 Obligations in accordance with this Resolution.

Section 8. Procedures for Sale of the 2012 Obligations. Pursuant to Sections 1 and 7 hereof, an Authorized Representative shall establish the method of sale of the

2012 Obligations. If the 2012 Obligations are sold pursuant to a public competitive sale, the Authorized Representative shall cause the Notice, or a summary of the Notice, to be published electronically on the Internet Parity website prior to the sale date stated in the Notice. For a competitive sale, bids to purchase the 2012 Obligations shall be received and reviewed on the date specified by the Authorized Representative in the Notice or upon such later date determined by an Authorized Representative if the sale is postponed based on market or other conditions. An Authorized Representative is authorized, on behalf of the City, to accept or reject the bids for the 2012 Obligations. An Authorized Representative may postpone the sale of the 2012 Obligations to a later date, cancel the sale based upon market conditions or, alternatively, enter into a negotiated sale of the 2012 Obligations pursuant to terms determined and approved by the Authorized Representative and as authorized by this Resolution.

Section 9. Defeasance. The City may defease the 2012 Obligations under the Financing Agreement by setting aside, with a duly appointed escrow agent, in a special escrow account irrevocably pledged to the payment of the principal and interest components of the Financing Agreement to be defeased, cash or direct obligations of the United States of America, including obligations of any federal agencies to the extent they are unconditionally guaranteed by the United States of America, in an amount which, in the opinion of a nationally recognized expert in the field of mathematical calculations relating to tax-exempt obligations, is sufficient without reinvestment to pay all principal components and interest components of the defeased Financing Agreement until the principal payment date or any earlier prepayment date. The obligations of the City under the Financing Agreement that have been defeased pursuant to this Section shall be deemed paid and no longer outstanding, and shall cease to be entitled to any lien, benefit or security under this Resolution, the Financing Agreement or the Escrow Agreement except the right to receive payment from the special escrow account.

Section 10. Refunding Escrow. A portion of the net proceeds of the 2012 Obligations shall be placed in one or more EDA Accounts to currently refund the Refunded Obligations. The Authorized Representative shall appoint an Escrow Deposit Agent, and the Authorized Representative and the Escrow Deposit Agent shall execute and deliver the Escrow Deposit Agreement as may be approved by the Authorized Representative.

The Escrow Deposit Agent and the Authorized Representative are hereby authorized to subscribe for and purchase the non-callable direct and general obligations of the United States of America to be placed in the EDA Accounts, on behalf of the City, which, together with interest earnings thereon, will be sufficient to pay all of the principal and interest components due on the Refunded Obligations.

Section 11. Prepayment of the Refunded Obligations. Contingent solely on the issuance of the Refunding Obligations and the deposit of the net proceeds with the Escrow Deposit Agent, the Authorized Representative is authorized to irrevocably call for prepayment or redemption, as applicable, the City's outstanding Refunded Obligations that are to be refunded with a portion of the proceeds of the 2012

Obligations on the earliest dates they are subject to prepayment or redemption, as applicable.

Section 12. 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 2012 Obligations and Western Financial Group, LLC, as Financial Advisor to the City with respect to the 2012 Obligations.

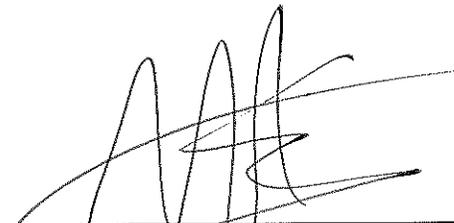
Section 13. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the 2012 Obligations by the Owners, the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners pursuant to ORS 287A.315 and ORS 287A.325, or any successor statute. The covenants, pledges, representations and warranties contained in this Resolution, or in the closing documents executed in connection with the 2012 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 2012 Obligations 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 the Council this 7th day of March 2012.

YES: Tom Greene
Scott Ramsay
Mark Capell
Jim Clinton
Kathie Eckman
Mayor Jeff Eager

NO: Jodie Barram



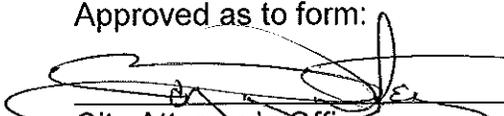
Jeff Eager, Mayor

ATTEST:



Robyn Christie, City Recorder

Approved as to form:



City Attorney's Office