

RESOLUTION NO. 3185

A RESOLUTION OF THE CITY OF BEND, OREGON, AUTHORIZING THE ISSUANCE, SALE, EXECUTION AND DELIVERY OF SEWER REVENUE BONDS, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$50,850,000, FOR THE PURPOSES OF FINANCING ALL OR A PORTION OF THE COSTS OF WATER RECLAMATION SYSTEM IMPROVEMENTS, AND PAYING COSTS OF ISSUANCE RELATED THERETO; AUTHORIZING THE AUTHORIZED REPRESENTATIVE TO NEGOTIATE AND ESTABLISH A NEW MASTER SEWER REVENUE BOND DECLARATION; AUTHORIZING THE PLEDGE OF NET REVENUES OF THE CITY'S WATER RECLAMATION SYSTEM; AUTHORIZING THE EXECUTION AND DELIVERY OF FINANCING, LEGAL AND DISCLOSURE DOCUMENTS; DESIGNATING AUTHORIZED REPRESENTATIVES AND DELEGATING AUTHORITY; PROVIDING FOR PUBLICATION OF NOTICE 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 to finance the Project, as defined below, by issuing revenue bonds pursuant to the laws of the State of Oregon (the "State"), including the applicable provisions of Oregon Revised Statutes ("ORS") chapter 287A and the City Charter.
- B. It is financially feasible and in the best interest of the City and will serve a public purpose to issue revenue bonds, in one or more series, to be designated as the City of Bend, Oregon Sewer Revenue Bonds, Series 2020 (the "Bonds"), in an aggregate principal amount not to exceed \$50,850,000 to (i) finance the costs of improvements to the water reclamation system (the "System"), including but not limited to the North Interceptor Sewer Line, and (ii) pay costs of issuance of the Bonds, including, 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 Bonds, if beneficial to the City (collectively, the "Project").
- C. In connection with the issuance of the Bonds, the City has determined that it is in the best interest of the City to establish a new master sewer revenue bond declaration (the "Master Declaration") and a first series declaration with respect to the Bonds (the "First Series Declaration" together with the Master Declaration as amended and supplemented from time to time, the "Bond Declaration") to ensure that the City enjoys the benefit of current market conditions and covenants with respect to the Bonds and future sewer revenue bonds issued by the City pursuant to the terms of the Bond Declaration.

- D. The City currently has various outstanding obligations with the State and related agencies secured by the Net Revenues (defined below) of the System (the "Outstanding Obligations").
- E. In connection with the establishment of the Bond Declaration, the City may be required to negotiate with the State and related agencies to amend or otherwise subordinate the terms of the Outstanding Obligations and, if necessary, establish a series declaration, all in accordance with the applicable provisions of the Bond Declaration.
- F. The City adopts this Resolution to authorize the issuance, sale, execution and delivery of the Bonds and the establishment of the Bond Declaration and, in connection therewith, to authorize the Authorized Representative, as defined below, to negotiate, execute and deliver all agreements, certificates and closing documents consistent with the purposes of this Resolution and to specify and determine the matters and things relative to the issuance of such Bonds and the establishment of the Bond Declaration
- G. Upon adoption of this Resolution, the City will cause Notice of the Bonds to be published in The Bend Bulletin, pursuant to ORS 287.150 and as provided for herein in Section 7, and none of the Bonds may be sold, and no purchase agreement for the Bonds may be executed, until at least sixty (60) days following publication of the notice.

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

SECTION 1. Authorization of the Bonds. The City Council authorizes the issuance, sale, execution and delivery of the Bonds, in one or more series, to be designated the "City of Bend, Oregon Sewer Revenue Bonds, Series 2020" in an aggregate principal amount not to exceed \$50,850,000. The proceeds of the Bonds shall be used for the purpose of financing the Project. The Bonds may be issued such that interest on the Bonds is tax-exempt or federally taxable, as designated by the Authorized Representative, defined below. The true interest cost on the Bonds issued shall not exceed five percent (5.0%) per annum for Bonds designated as tax-exempt, and the true interest cost shall not exceed six percent (6.0%) per annum for Bonds designated as federally taxable. The Bonds may be signed with the manual or facsimile signature of an Authorized Representative (defined below) and shall be manually authenticated by the Bond Registrar (defined below). The terms and conditions for the sale, issuance, execution, delivery and administration of the Bonds shall be established consistent with the authorization of this Resolution.

SECTION 2. Security. The Bonds shall not be a general obligation of the City and shall not be payable from any taxes levied by the City. As security for the payment of the Bonds, the City pledges the Net Revenues (defined below) of the System to the punctual payment of principal of, premium (if any) and interest on the Bonds. Pursuant to ORS 287A.310, or any successor provision in law, the pledge of the Net Revenues made by the City under this Resolution and set forth in the Bond Declaration shall be

valid and binding upon the execution and delivery of the Bonds and the Bond Declaration. The owners of the Bonds will not have a lien on or security interest in the Project or any other property financed with the proceeds of the Bonds. "Net Revenues" means the gross revenues of the System less payment of operating expenses, as those terms are further defined in the Bond Declaration subject to the review and approval of the Authorized Representative (defined below).

SECTION 3. Designation, Authorization and Direction of Authorized Representative; Bond Declaration and Rate Covenant; Bond Documents.

(a) The City authorizes and directs the City Manager or the Chief Financial Officer or each of their respective designees (each, an "Authorized Representative"), without further approval by the City Council, to evaluate, negotiate, enter into, execute, deliver and otherwise implement on behalf of the City, the terms and conditions for the issuance, sale, execution and delivery and administration of the Bonds, as may in the judgment of such Authorized Representative be in the best interests of the City and in a manner consistent with and in furtherance of this Resolution, including as specified in Section 6 herein.

(b) The Authorized Representative is directed to negotiate and establish in the Bond Declaration the terms of the sale, issuance, security for and administration of the Bonds and any additional sewer revenue bonds secured by the Net Revenues on the same lien as the Bonds (collectively, the "Parity Bonds"). The Authorized Representative is authorized to include in the Master Declaration, without limitation, a rate covenant pursuant to which (i) the City will charge rates and fees in connection with the operation of the System that will be adequate to generate in each fiscal year Net Revenues that will be not less than 1.15 times and not more than 1.50 times the required annual debt service payments due on all Parity Bonds outstanding under the Master Declaration, and (ii) the City will increase the rates and fees imposed in connection with the System and/or reduce expenses to a level so that Net Revenues are projected to meet the required level if the Net Revenues fail to meet the levels required by the rate covenant for the Parity Bonds.

(c) The Authorized Representative is further authorized and directed on behalf of the City to negotiate, review, execute and deliver all necessary documents, including bond issuance declarations or certificates, financing agreements, supplemental actions and such other agreements or certificates (collectively, the "Bond Documents"), in connection with the offering, sale, administration, execution and delivery of the Bonds pursuant to the authorization of this Resolution.

SECTION 4. Other Outstanding Obligations. The City hereby authorizes the Authorized Representative to negotiate terms to refund, amend or subordinate any outstanding debt obligations, including without limitation any loans from the State of Oregon and related agencies (e.g., Department of Environmental Quality, Business Oregon, etc.), and establish a series declaration or other legal documents as necessary and appropriate in accordance with this Resolution and the applicable provisions of the

Bond Declaration, and to negotiate, execute and delivery any agreements, supplemental actions and certificates required in connection therewith.

SECTION 5. Tax Covenants. The City covenants to use the proceeds of the Bonds and the facilities financed or refinanced with the 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 Bonds that are designated as tax-exempt (the "Tax-Exempt Bonds") will not be includable in gross income of the holders of the Bonds for federal income tax purposes. The City specifically covenants:

- (1) 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; and
- (2) to operate the facilities financed or refinanced with the proceeds of the Bonds so that the Tax-Exempt Bonds are not "private activity bonds" under Section 141 of the Code; and
- (3) 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 Tax-Exempt Bonds.

SECTION 6. Delegation for Establishment of Terms and Sale of the Bonds. Each Authorized Representative is hereby authorized and directed, on behalf of the City, without further approval of the City Council, to take or direct to be taken all such actions as may be necessary, desirable or appropriate in the opinion of the Authorized Representative in connection with the Bonds or to carry out the purposes of this Resolution, including but not limited to:

(a) evaluate and determine favorable terms and conditions for the issuance, sale, execution, delivery and administration of the Bonds, the Bond Declaration and the Bond Documents, subject to a determination by the Authorized Representative that such terms, including but not limited to, covenants regarding issuance of addition Parity Bonds and subordinate obligations, rate covenants (consistent with the parameters of Section 3(b) herein) and bond debt service reserves, are beneficial to the City to obtain good financing terms for the Bonds, Parity Bonds and subordinate obligations, including:

- (1) soliciting bids from and selecting the method of purchase of the Bonds by a banking institution (the "Bank"), which may occur through a direct private placement with a Bank, a negotiated public sale with the Bank serving as underwriter, or a public, competitive offering of the Bonds for sale; and
- (2) evaluating any proposals from providers of Credit Enhancement Devices for the Bonds, obtaining a Credit Enhancement Device for the

Bonds and executing and delivering agreements related to such Credit Enhancement Device and/or including representations, agreements and covenants in the Supplemental Declaration for the Bonds or the Bond Documents with respect to such Credit Enhancement Device; and

(b) determine, if necessary, the form and content of the preliminary and final disclosure documents in connection with a public sale of the Bonds;

(c) request and obtain ratings of the Bonds if determined by the Authorized Representative to be in the best interest of the City and expend Bond proceeds to pay for such ratings;

(d) establish and fund a bond debt service reserve, if necessary or desirable, for the Bonds;

(e) provide for financial reporting for as long as any of the Bonds are outstanding;

(f) approve the form of the Bonds and take actions necessary to qualify the Bonds for the book-entry system of The Depository Trust Company, and provide for the authentication, registration, payment, exchange and transfer of the Bonds;

(g) 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 Bonds that satisfies the requirements of Section (b)(5)(i) of the Securities and Exchange Commission Rule 15c2-12;

(h) execute and deliver the Bonds, the Bond Declaration, a purchase contract or similar agreement between the City and any Bank selected to purchase the Bonds, the Bond Documents, the Continuing Disclosure Certificate and any other documents and certificates and opinions required in connection with the offering, sale, execution and delivery of the Bonds;

(i) solicit proposals for services and/or select a paying agent and registrar (the "Bond Registrar") for the Bonds;

(j) negotiate with the State and related agencies, pursuant to the authority granted in Section 4 of this resolution, to refund, amend or subordinate the Outstanding Obligations, as necessary and in accordance with the applicable provisions of the Bond Declaration, and negotiate, execute and deliver any agreements, supplemental actions and certificates required in connection therewith;

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

(l) designate a federally taxable series of 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 Bonds and the Project financed with the proceeds of the Bonds; and

(m) execute and deliver a certificate specifying the actions taken pursuant to this Resolution and take such other actions and execute and deliver such other certificates, documents or agreements in connection with the Bonds that the Authorized Representative determines are desirable in connection with the Bonds and in accordance with this Resolution.

SECTION 7. Process.

(a) None of the Bonds may be sold, and no purchase agreement for the Bonds may be executed, until at least sixty (60) days following publication of the Notice of Sewer Revenue Bond Authorization, such notice being in substantially the same form attached to this Resolution as Exhibit A (the "Notice").

(b) Pursuant to ORS 287A.150, the Notice will be published in The Bend Bulletin, a newspaper of general circulation within the boundaries of the City, upon adoption of this Resolution. The Notice shall provide that the estimated principal of the Bonds shall not exceed \$50,850,000.

(c) The Notice shall also specify the last date on which petitions from qualified electors of the City may be submitted.

(d) If petitions for an election, containing valid signatures of not less than five percent (5%) of the City's qualified electors, are received within the time indicated in the Notice, the question of issuing such Bonds shall be placed on the ballot at the next legally available election date. If such petitions are received, no such amount of Bonds may be sold until this Resolution and the question of whether to issue such Bonds is approved by a majority of the electors living within the boundaries of the City who vote on that question. Any such petitions will be subject to ORS 287A.150.

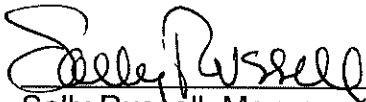
SECTION 8. Appointment of Bond Counsel and Financial Advisor. In connection with the Bonds, the City confirms its prior appointment of Orrick, Herrington & Sutcliffe LLP, as Bond Counsel to the City, and PFM Financial Advisors LLC, as Financial Advisor to the City. The fees and expenses of Bond Counsel and the Financial Advisor shall be payable out of the proceeds of the Bonds.

SECTION 9. Binding Agreement of the City. The covenants, pledges, representations and agreements set forth in this Resolution and the Bond Documents executed in connection with the Bonds, and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be for the benefit, protection and security of the owners of the Bonds, all of which shall be of equal rank without preference, priority or distinction of the Bonds over any other thereof, except as expressly provided in or pursuant to this Resolution.

SECTION 10. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption by the City Council.

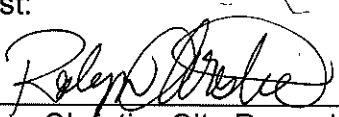
Adopted by a vote of the Bend City Council on December 18, 2019.

YES: Sally Russell, Mayor NO: none
Bruce Abernethy
Barb Campbell
Bill Moseley
Justin Livingston
Gena Goodman-Campbell
Chris Piper




Sally Russell, Mayor

Attest:



Robyn Christie, City Recorder

Approved as to form:



Mary A. Winters, City Attorney

EXHIBIT A

(FORM OF NOTICE OF SEWER REVENUE BOND AUTHORIZATION)

NOTICE IS HEREBY GIVEN that the City Council of the City of Bend, Oregon (the "City"), adopted Resolution No. [] (the "Resolution") on December 18, 2019, authorizing the issuance of sewer revenue bonds. The Bonds will be issued to (i) finance the costs of water reclamation system improvements, including but not limited to the North Interceptor Sewer Line, and (ii) pay costs of issuance of the Bonds, as more fully described in the Resolution.

The City Council has delegated to the City Manager or the Chief Financial Officer or their respective designees the authority to establish the terms, conditions and covenants regarding the Bonds and the revenues which are necessary or desirable to effect the sale of the Bonds.

The City estimates that the Bonds will be issued in a principal amount not to exceed \$50,850,000. Bond principal and interest are expected to be paid from the City's Water Reclamation Fund. The Bonds will not be general obligations of the City, nor a charge upon its tax revenues, but will be payable solely from the revenues which the City pledges to the payment of the Bonds.

If written petitions, signed by not less than five percent (5%) of the City's qualified electors, are filed at the Office of the City Recorder on or before February 19, 2020 (the 61st day after the date of publication of the notice), the question of issuing sewer revenue bonds in an estimated principal amount of not to exceed \$50,850,000 shall be placed on the ballot at the next legally available election date. Any such petition shall be subject to ORS 287A.150.

The Office of the City Recorder is located at 710 NW Wall Street, Bend, Oregon 97703. Information on procedures for filing petitions may also be obtained at such address or by telephone at (541) 388-5505.

The Resolution is available for inspection at the Office of the City Recorder.

The Bonds will be issued and sold pursuant to Oregon Revised Statutes 287A.150 to ORS 287A.350; this Notice is published pursuant to ORS 287A.150.

BY ORDER OF THE CITY COUNCIL: DECEMBER 18, 2019.

Published: December 20, 2019.