

**CITY OF FLORENCE
RESOLUTION NO. 21, SERIES 2015**

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A FULL FAITH AND CREDIT FINANCING AGREEMENT AND NOTE FOR THE PURPOSE OF FINANCING AND REFINANCING REAL AND PERSONAL PROPERTY; DESIGNATING AN AUTHORIZED REPRESENTATIVE, SPECIAL COUNSEL AND FINANCIAL ADVISOR; AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE AGENCY; AND RELATED MATTERS.

RECITALS:

1. The City of Florence, Oregon (the "**City**"), is authorized by Oregon Revised Statutes ("**ORS**") Section 271.390 AND Chapter 287A to (i) enter into a financing agreement to finance real and personal property the City determines is needed, (ii) pledge its full faith and credit, and (iii) pay the costs of issuance of such financing agreements.
2. The Charter of the City does not (i) prohibit the City from entering into a financing agreement and note and pledging its full faith and credit as security for the financing agreement, nor (ii) require a non-appropriation clause to be included in the financing agreement.
3. A public works facility, Library improvements, water system improvements, street improvements, and projects in the Florence Downtown Urban Renewal Plan (the "**Plan**") of the Florence Urban Renewal Agency, Oregon (the "**Agency**") are needed.
4. The Agency entered into an Intergovernmental Agreement for Reimbursement of Siuslaw Public Library District Indebtedness (the "**Library IGA**") with Siuslaw Public Library District (the "**Library**") as of December 11, 2008, to reimburse the Library for payments made under its \$315,000 Installment Financing Agreement, Series 2009E, dated as of June 25, 2009 under the Special Districts Association of Oregon FlexLease Program (the "**Series 2009E Financing**") to finance improvements to the Library; and
5. The Series 2009E Financing is subject to prepayment on any July 1 or January 1 at the price of 100% of par commencing January 1, 2014, and there is currently \$210,000 principal outstanding under the Series 2009E Financing.
6. The Agency issued its \$2,500,000 Florence Urban Renewal Agency, Oregon Urban Renewal Note, Series 2011 (Florence Downtown Urban Renewal Area) on July 8, 2011 (the "**2011 Note**") under the terms of the Master Declaration to finance projects in the Plan.

7. The 2011 Note is subject to prepayment on any date without penalty and there is currently \$1,665,000 principal outstanding under the 2011 Note; and
8. The City desires to authorize and enter into a financing agreement and note (the "**Agreement**") in an amount not to exceed \$7,800,000 for the purpose of (i) financing (a) a public works facility (the "**Public Works Project**"), (b) improvements to the City's water system (the "**Water System Project**"), (c) improvements to the City's streets (the "**Street Project**") and (d) certain real and personal property under the Plan (the "**Plan Project**" collectively with the Public Works Project, the Water System Project and the Streets Project, the "**New Money Project**") (ii) refinancing the 2011 Note and the Series 2009E Financing (collectively the "**Refunding Project**"), and (iii) to pay the costs incidental thereto. The New Money Project and the Refunding Project are collectively referred to as the "**Project**").
9. The Agreement and any accompanying note will be issued as a full faith and credit obligation of the City, secured by the general, non-restricted revenues of the City and other funds that 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; and
10. The City further finds it is desirable to enter into an intergovernmental agreement (the "**2015 IGA**") with the Agency to receive funds from the Agency solely from the Security as defined in the Agency's Master Urban Renewal Obligation Declaration (Florence Downtown Urban Renewal Area) (the "**Master Declaration**"), to repay the portion of the Agreement allocable to projects in the Plan including the Plan Project and the Refunding Project and costs incidental thereto.

Based upon these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

1. Authorization.

The City Council hereby determines the Project is needed and authorizes the execution and delivery of a financing agreement(s) in one or more series, which may be evidenced by a note(s) (collectively, the "**Agreement**") in a form satisfactory to the Authorized Representative, as defined below, in an aggregate amount not to exceed \$7,800,000 to finance the Project. The Agreement shall mature not later than twenty-one (21) years from the date of issuance.

2. Financing Payments.

The Financing Payments due under the Agreement shall be full faith and credit obligations of the City payable from the lawfully available, non-restricted funds of the City and shall not be subject to annual appropriation. The City shall use all taxing power available to it under current law to generate funds sufficient to permit the City to make the payments within the limits of Article XI, sections 11 and 11b.

3. Designation of Authorized Representative.

The City Council hereby authorizes the City Manager or the Mayor or any designee of the City Council (the “**Authorized Representative**”) to act as the authorized representative on behalf of the City and determine the remaining terms of the Agreement as delegated in Section 4 below.

4. Delegation of Final Terms of the Agreement and Additional Documents.

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

- A. Determine whether proceeds of the Agreement will be used to refund the 2011 Note and/or the Series 2009E Financing and take whatever action is necessary on behalf of the City to refund the 2011 Note and Series 2009E Financing;
- B. Negotiate the terms of, including the maturity and interest payment dates, dated date, principal amount, optional prepayment provisions, fixed and/or variable interest rates, draw down provisions, amortization schedules, and fees; determine if the Agreement will be issued on a tax-exempt basis and/or a taxable basis; and all other terms of the Agreement and approve, execute and deliver the Agreement;
- C. Approve, execute and deliver a Tax Certificate for the portion of the Agreement issued on a tax-exempt basis;
- D. Engage the services of any professionals whose services are desirable for the financing and refinancing;
- E. Enter into the 2015 IGA with the Agency to loan proceeds of the Agreement to the Agency for the Plan Project and the Refunding Project and receive funds from the Agency solely from the Security as defined in the Agency’s Master Declaration to repay the portion of the Agreement allocable to projects in the Plan including the Plan Project and the Refunding Project and costs incidental thereto;
- F. Enter into covenants to collect revenues of the City’s Street Fund in amount sufficient to maintain a minimum coverage ratio on the Street Fund’s debt

service, including the portion of the Agreement proceeds used to finance the Street Project.

- G. Enter into covenants to collect revenues of the City's Water Fund in amount sufficient to maintain a minimum coverage ratio on the Water Fund's debt service, including the portion of the Agreement proceeds used to finance the Water System Project.
- H. Enter into an Escrow Deposit Agreement for the establishment of an Escrow Deposit Fund to which shall be deposited sufficient proceeds from the Agreement to provide funds, together with any interest received from investment of such proceeds, sufficient to pay the principal of and interest on the Series 2009E Financing to be refunded, designate an Escrow Agent to administer the Escrow Deposit Fund and to execute the Escrow Deposit Agreement for and on behalf of the City, and appoint a verification agent to confirm that the Escrow Deposit Fund is sufficient to pay when due the principal and interest on the Series 2009E Financing which is being refunded to the redemption date or the final maturity, as the case may be; and
- I. 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 enter into the Agreement in accordance with this Resolution and take any other actions that the Authorized Representative determines are necessary or desirable to finance the Project with the Agreement in accordance with this Resolution.

5. Compliance with Internal Revenue Code.

The City hereby covenants for the benefit of the Lender pursuant to the Agreement to use the proceeds of any portion of the Agreement issued on a tax-exempt basis, as determined by the Authorized Representative, and the facilities refinanced with the tax-exempt Agreement in the manner required under this Resolution and under prior resolutions of the City, and to otherwise comply with all provisions of the Internal Revenue Code of 1986, as amended (the "**Code**"), that are required for the interest component of the payments payable under the Agreement to be excluded from gross income for federal income tax purposes, as provided in the Agreement. The City makes the following specific covenants with respect to the Code:

- A. The City will not take any action or omit any action if it would cause the Agreement to become an arbitrage bond under Section 148 of the Code.
- B. The City shall operate the facilities refinanced with the Agreement so that the Agreement does not become a "private activity bond" within the meaning of Section 141 of the Code.

- C. The City shall comply with appropriate Code reporting requirements.
- D. The City shall pay, when due, all rebates and penalties with respect to the Agreement that are required by Section 148(f) of the Code.

The covenants contained in this Section 5 and any covenants in the closing documents for the Agreement shall constitute contracts with the Lender, and shall be enforceable by the Lender. The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Agreement.

6. Bank Designation.

For purposes of paragraph (3) of Section 265(b) of the Code, the City designates the Agreement issued on a tax-exempt basis as a “qualified tax-exempt obligation” since the 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 the Agreement, have been or shall be issued by the City, including all subordinate entities of the City, if any, during the calendar year 2015.

7. Appointment of Special Counsel.

The City appoints Mersereau Shannon LLP as special counsel to the City for the execution and delivery of the Agreement.

8. Appointment of Financial Advisor.

The City appoints GEL Oregon, Inc., as financial advisor to the City for the execution and delivery of the Agreement.

9. Appointment of Lender.

The City appoints Banner Bank as the lender for the Agreement (the “**Lender**”).

10. Post Issuance Compliance Procedures.

The Authorized Representative is authorized to procedures regarding post issuance compliance related to tax-exempt and taxable obligations of the City.

11. Resolution to Constitute Contract.

In consideration of entering into the Agreement, the provisions of this Resolution shall be part of the contract of the City with the Lender and shall be deemed to be and shall constitute a contract between the City and the Lender. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents

executed in connection with the Agreement and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be a contract for the benefit, protection and security of the Lender.

12. Reimbursement.

The City hereby declares its official intent to reimburse itself with the proceeds of the Agreement for any of expenditures incurred by it prior to the issuance of the Agreement.

13. Effective Date.

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

Passed by the Florence City Council this 24th day of August 2015.



Joe Henry, Mayor

ATTEST:



Kelli Weese, City Recorder