

RESOLUTION NO. 2448

A RESOLUTION ACCEPTING A PROPOSAL FOR FINANCING FROM U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC.; AUTHORIZING THE EXECUTION AND DELIVERY OF A FULL FAITH AND CREDIT FINANCING AGREEMENT AND NOTE FOR THE PURPOSE OF FINANCING PERSONAL PROPERTY; DESIGNATING AN AUTHORIZED REPRESENTATIVE, SPECIAL COUNSEL AND FINANCIAL ADVISOR; AND RELATED MATTERS.

RECITALS:

1. The City of Warrenton, Oregon (the "City"), is authorized by Oregon Revised Statutes ("ORS") Section 271.390 and Chapter 287A to (i) enter into a financing agreement and note (collectively, the "Agreement") to finance 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. Since the City intends to pay the amounts due under the Agreement from payments received by the City pursuant to a lease of property to Warrenton Fiber Company at Tansy Point (the "Warrenton Fiber Revenues"), 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 additional security for the financing agreement, nor (ii) require a non-appropriation clause to be included in the financing agreement.
3. The City has determined that an aerial fire truck is needed.
4. The City desires to authorize and enter into the Agreement in an amount not to exceed \$625,000 for the purpose of financing the acquisition of an aerial fire truck and to pay the costs incidental thereto (collectively, the "Project").
5. The City has received a proposal from U.S. Bancorp Government Leasing and Finance, Inc. dated December 1, 2015 (the "US Bancorp Proposal") to provide financing for the Project which the City deems acceptable.
6. It is in the best interest of the City to accept the US Bancorp Proposal to finance the Project and to pay all costs incidental thereto.
5. The Agreement will be payable from the Warrenton Fiber Revenues and additionally secured by the full faith and credit of the City and 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.

Based upon these findings,

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

1. Acceptance. The City Council hereby accepts the U.S. Bancorp Proposal to provide financing the Project and the Authorized Representative (as defined below) is authorized to determine all other terms for the Agreement, consistent with the provisions of this Resolution, and execute on behalf of the City all documents required in order to issue, sell and deliver the Agreement.

2. Authorization.

The City Council hereby determines the Project is needed and authorizes the execution and delivery of the Agreement in a form satisfactory to the Authorized Representative in an aggregate amount not to exceed \$625,000 to finance the Project. The Agreement shall mature not later than eleven (11) years from the date of issuance.

3. Security.

(a) The City shall pay the amounts due under the Agreement from the Warrenton Fiber Revenues.

(b) As additional security for the payments due under the Agreement, the City agrees to pay the Agreement from any and all of its legally available, non-restricted funds, including taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon, and pledges its full faith and credit to pay the amounts due under the Agreement. The Agreement shall not constitute “voluntary floating indebtedness” for purposes of Section 40 of the City Charter because the Agreement is expected to be paid entirely from the Warrenton Fiber Revenues.

(c) The owner of the Agreement shall not have a lien or security interest on the property financed with the proceeds of the Agreement.

4. Designation of Authorized Representative.

The City Council hereby authorizes the Mayor, City Manager or Finance Director 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 5 below.

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

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

- A. Negotiate the final 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, and all other terms of the Agreement and approve, execute and deliver the Agreement;
- B. Approve, execute and deliver a Tax Certificate in connection with the Agreement;
- C. Engage the services of any professionals whose services are desirable for the financing.

- D. 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.

6. Compliance with Internal Revenue Code.

The City hereby covenants for the benefit of the owner of the Agreement to use the proceeds of the Agreement and the facilities financed with the Agreement in the manner required under this Resolution 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. 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 6 and any covenants in the closing documents for the Agreement shall constitute contracts with the owner of the Agreement, and shall be enforceable by the owner of the Agreement. The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Agreement.

7. Bank Designation.

For purposes of paragraph (3) of Section 265(b) of the Code, the City designates the Agreement 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 in which the Agreement is entered into.

8. Appointment of Special Counsel.

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

9. Appointment of Financial Advisor.

The City appoints SDAO Advisory Services, LLC. as financial advisor to the City for the execution and delivery of the Agreement.

10. Post Issuance Compliance Procedures.

The Authorized Representative is authorized to adopt 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 owner of the Agreement and shall be deemed to be and shall constitute a contract between the City and the owner of the Agreement. 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 owner of the Agreement.

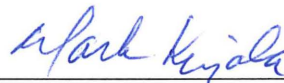
12. Reimbursement.

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.

14. Effective Date.

Pursuant to ORS 221.310(3), this Resolution shall take effect upon adoption by the City Commission.

DATED this 22nd day of December 2015.



Mayor

ATTEST:



City Recorder