

RESOLUTION NO. 2165

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WARRENTON, OREGON AUTHORIZING A FINANCING AGREEMENT IN AN AMOUNT NOT TO EXCEED \$420,000 TO REFINANCE AN EXISTING OBLIGATION AND PLEDGING THE CITY'S FULL FAITH AND CREDIT

WHEREAS, the City Commission of Warrenton, Oregon (the "City") has determined that it is desirable to refinance the Sales Agreement and Receipt for Earnest Money among Edwin J. Peterson, Trustee of the Edwin J. Peterson Revocable Living Trust of December 20, 1994; Anna M. Peterson, Trustee of the Anna M. Peterson Revocable Living Trust of December 20, 1994, (collectively, the "Sellers"); and the City of Warrenton, Oregon (the "Purchaser"), which related to the sale and purchase of vacant land located at SW Main Court and SW 2nd Street, Warrenton, Clatsop County, Oregon (the "Project"); and

WHEREAS, the amount to refinance the Project is estimated to be not less than \$420,000, including costs associated with entering into a financing agreement to refinance the Project; and

WHEREAS, the City is authorized pursuant to the Constitution and laws of the State of Oregon, specifically Oregon Revised Statutes Section 271.390 (the "Act") to enter into a financing agreement to finance and refinance authorized projects; and

WHEREAS, it is in the best interest of the City to authorize and enter into a financing agreement and note (collectively, the "Agreement") to refinance the Project and to pay all costs incidental thereto.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WARRENTON, OREGON AS FOLLOWS:

1. Authorization. The City hereby authorizes the execution and delivery of an Agreement with Bank of the Pacific (the "Bank") to refinance the Project. The Agreement shall be in the aggregate principal amount not to exceed \$420,000, shall bear interest at a rate of 5.0% and the term shall be for not more than fifteen (15) years.

2. Payments. The obligation of the City to make the payments under the Agreement shall be a full faith and credit obligation of the City, and is not subject to appropriation. The payments due under the Agreement shall be payable from 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 Bank shall have a lien and security interest on the real property refinanced with the proceeds of the Agreement. The City's voluntary floating indebtedness, including the amount of the Agreement, does not exceed 2% of the current assessed valuation of the taxable property within the City, based on percentage of true valuation.

3. Designation of Authorized Representative. Pursuant to ORS 288.155(5)(a), the City Commissioners of the City hereby authorizes the Mayor or the Vice Chair (the "Authorized

Representative”) to act on behalf of the City and determine the remaining terms of the Agreement as specified in Section 4.

4. Delegation of Final Terms of the Agreement and Additional Documents. The Authorized Representative is hereby authorized, on behalf of the City, to:

- a. establish the dated date, interest payment dates, interest rates (not to exceed the rate stated in Section 1 of this Resolution), the principal maturities, the final principal amount (not to exceed the principal amount stated in Section 1 of this Resolution), and to establish prepayment provisions for the payments under the Agreement;
- b. prepare the Agreement which the Authorized Representative determines to be in the best interests of the City, and to execute and deliver the Agreement;
- c. enter into any other agreement and to execute any other certificates or documents, and take any actions, which are necessary to refinance the Project in accordance with this Resolution.

5. Maintenance of Tax-Exempt Status. The City hereby covenants to use the proceeds of the Agreement and the Project, and to otherwise comply with all provisions of the Internal Revenue Code of 1986, as amended (the “Code”) which 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 Project 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 reporting requirements.
- d. The City shall pay, when due, all rebates and penalties with respect to the Agreement which 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 Bank and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the City to protect the tax-exempt status of the Agreement.

6. Bank Designation. The City hereby designates the Agreement for purposes of paragraph (3) of Section 265(b) of the Code as a “qualified tax-exempt obligation” and 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.

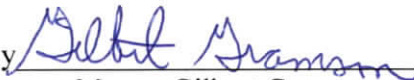
7. Appointment of Special Counsel. The City hereby appoints Mersereau & Shannon, LLP as special counsel for the execution of the Agreement.

8. Effective Date. Pursuant to ORS 221.310(3), this Resolution shall become effective upon passage by the City Commission.

DATED this 23rd day of January, 2007.

CITY OF WARRENTON
CLATSOP COUNTY, OREGON

APPROVED

By  _____
Mayor, Gilbert Gramson

ATTEST

By  _____
City Recorder, Linda Engbretson