



# City Of Scio, Oregon

## RESOLUTION No. 20-02

**A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A FULL FAITH AND CREDIT FINANCING AGREEMENT FOR THE PURPOSE OF FINANCING REAL AND PERSONAL PROPERTY IN AN AMOUNT NOT TO EXCEED \$2,000,000.00; DESIGNATING AN AUTHORIZED REPRESENTATIVE AND SPECIAL COUNSEL; AND RELATED MATTERS.**

WHEREAS, the City of Scio, Linn County, Oregon (the “City”), is authorized pursuant to the Constitution and the laws of the State of Oregon, specifically Oregon Revised Statutes (“ORS”) Sections 271.390 and 287A.315 to enter into financing agreements to finance real or personal property that the City determines is needed and pledge its full faith and credit; and

WHEREAS, the Charter of the City does not (1) prohibit the City from entering into a financing agreement and pledging its full faith and credit as security for the financing agreement, nor (2) require a non-appropriation clause to be included in the financing agreement; and

WHEREAS, the City has determined that acquisition, construction and equipping of a new City Hall and Public Works Shop and related projects are needed (the “Project”); and

WHEREAS, the City desires to authorize the execution and delivery of a financing agreement(s) to finance the Project and related matters; and

WHEREAS, the estimated weighted average life of the financing agreement(s) will not exceed the estimated dollar weighted average life of the Project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SCIO RESOLVES AS FOLLOWS:

**Section 1. Authorization.** The Council hereby authorizes:

A. Financing Agreement. The City authorizes the execution and delivery of a full faith and credit financing agreement(s) and note(s) (the “Financing Agreement”) in a form satisfactory to the Authorized Representative (defined herein). The aggregate principal amount of the Financing Agreement may not exceed \$2,000,000.00 and the proceeds shall be used to finance the Project and costs of issuance of the Financing Agreement. The Financing Agreement may consist of one or more financing agreements and notes and may be issued as taxable and/or tax-exempt obligations at a true interest cost as determined by the Authorized Representative, shall mature on the date(s) set by the Authorized Representative.

**Section 2. Security.**

The Financing Agreement shall be a full faith and credit obligation of the City payable from the lawfully available, non-restricted funds 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 obligation of the City to make payments under Financing

Agreement shall be a full faith and credit obligation of the City, not subject to annual appropriation. The Financing Agreement will not be secured by any lien or security interest on any property, real or personal.

### **Section 3. Designation of Authorized Representative.**

The City hereby authorizes the City Manager or the Mayor, or any designee of the City Manager or Mayor (the “Authorized Representative”) to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement as delegated herein.

### **Section 4. Delegation of Final Terms of the Financing Agreement and Additional Documents.**

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

A. select the lender for the Financing Agreement, negotiate the terms of the Financing Agreement, and enter into a commitment letter or agreement related to the Financing Agreement;

B. establish the maturity and interest payment dates, dated dates, principal amounts, prepayment provisions, interest rates, draw-down provisions, amortization schedules, covenants, fees, financial reporting requirements, term, denominations, and all other terms under which the Financing Agreement shall be issued, sold, executed, and delivered;

C. negotiate the terms and approve of the Financing Agreement as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement;

D. determine if the Financing Agreement will be issued on a tax-exempt basis and/or a taxable basis; and all other terms of the Financing Agreement and approve, execute and deliver the Financing Agreement;

E. designate the Financing Agreement as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”);

F. approve, execute and deliver a Tax Certificate for the Financing Agreement issued on a tax-exempt basis;

G. engage the services of any professionals whose services the Authorized Representative determines are necessary or desirable; and

H. 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 issue, sell and deliver the Financing 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 Financing Agreement in accordance with this Resolution.

### **Section 5. Compliance with Internal Revenue Code.**

The City hereby covenants for the benefit of the Owners of the Financing Agreement issued on a tax-exempt basis to use the Financing Agreement proceeds and the Project financed with such proceeds in the manner required, and to otherwise comply with all provisions of the Code, which are

required so that interest paid on the Financing Agreement will not be includable in gross income of the Owners of such Financing Agreement 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 Financing Agreement to become an arbitrage bond under Section 148 of the Code.

B. The City shall operate the Project financed with the Financing Agreement so that the Financing 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 Financing 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 Financing Agreement shall constitute contracts with the owners of the Financing Agreement, 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 Financing Agreement.

#### **Section 6. Appointment of Special Counsel.**

The City appoints Mersereau Shannon LLP as special counsel to the City for the issuance of the Financing Agreement.

#### **Section 7. Resolution to Constitute Contract.**

In consideration of the loan acceptance of the Financing 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 Financing Agreement and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the lender.

#### **Section 8. Intent to Reimburse**

It is the reasonable official intent of the City to reimburse itself for the capital expenditures associated with the Project with the proceeds of the Financing Agreement in the principal amount not to exceed \$2,000,000.00. This declaration of official intent is given pursuant to United States Treasury Regulations Section 1.150-2.

#### **Section 9. Post Issuance Compliance Procedures.**

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

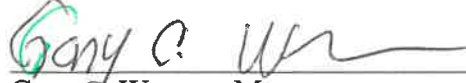
**Section 10. Effective Date.**

This resolution shall take effect immediately upon its adoption by the Council.

ADOPTED: April 13, 2020.

Passed by the Scio City Council and executed by the Mayor on this 13th day of April, 2020, by a vote of 5 yeas and 0 nays.

Scio, Oregon

  
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Gary D. Weaver, Mayor

ATTESTED BY:

  
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Virginia Allen, City Manager