

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

BOARD ORDER 15- 410

AN ORDER OF THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON AUTHORIZING THE PURCHASE AND FINANCING OF CERTAIN REAL AND PERSONAL PROPERTY FOR A NEW PUBLIC WORKS FACILITY; AUTHORIZING THE NEGOTIATION, EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT, A FINANCING AGREEMENT, ESCROW AGREEMENT AND RELATED PURCHASE, SALE AND FINANCING DOCUMENTS THAT ESTABLISH THE TERMS AND CONDITIONS OF THE PURCHASE AND SALE OF THE PROPERTY AND THAT PROVIDE THE TERMS FOR THE SALE AND DELIVERY OF FULL FAITH AND CREDIT OBLIGATIONS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$2,500,000; PROVIDING FOR THE REIMBURSEMENT OF EXPENDITURES RELATED TO THE PURCHASE, SALE, FINANCING AND IMPROVEMENT OF THE FACILITY; DESIGNATING AUTHORIZED REPRESENTATIVES AND DELEGATING RESPONSIBILITIES; AND RELATED MATTERS.

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of County business in formal session on Thursday, October 1, 2015 at 10:00 a.m. in Room 32 of the courthouse, Commissioners Allen Springer, Mary Starrett, and Stan Primozych being present.

WHEREAS, the County is authorized by the laws of the State of Oregon to purchase, finance and improve real and personal property for public purposes.

WHEREAS, the County has identified an opportunity to acquire certain real and personal property consisting of a vacant shop, office buildings and other property and improvements located at 3500 and 3600 NE Three Mile Lane, McMinnville, Oregon 97128, and proposes to purchase a portion of such property for a new public works facility (the "Project").

WHEREAS, the County is negotiating the terms and conditions of a Purchase and Sale Agreement providing for the purchase of the Project from Kit Johnson Farms (the "Seller"), who has, in turn, entered into a Purchase and Sale Agreement with the Chapter 7 Trustee of Evergreen International Aviation, Inc. in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

WHEREAS, the County desires to enter into a Purchase and Sale Agreement with the Seller (the "Purchase Agreement") pursuant to which the Seller will sell the portion of the property comprising the Project to the County, upon approval of the sale of the property to the Seller by the Bankruptcy Court.

WHEREAS, the County is authorized pursuant to the Oregon Constitution and Oregon Revised Statutes Section 271.390 and appropriate provisions of ORS Chapter 287A to issue obligations for the purpose of financing real or personal property.

WHEREAS, the County desires to issue obligations to finance the Project and to authorize the execution and delivery of one or more (i) financing agreements, (ii) escrow agreements (iii) any other agreements or documents required in connection with the issuance of such obligations

(collectively, the “Financing Documents”), that provide the terms for the execution, delivery and sale of tax-exempt full faith and credit obligations, in one or more series, in an aggregate principal amount not to exceed \$2,500,000 (the “2015 Obligations”).

WHEREAS, the obligation of the County to make financing payments under the Financing Documents will be secured by and payable from (i) the County’s general non-restricted revenues and other funds that are lawfully available for that purpose as described below under Section 3, and (ii) other lawfully available funds that may be pledged to the payment of the obligations.

WHEREAS, to ensure that interest on the 2015 Obligations remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), the County expects to adopt certain post-issuance policies and procedures (the “Post-Issuance Compliance Procedures”) to ensure that appropriate steps are taken, with regard to the 2015 Obligations and any future debt obligations of the County issued on a tax-exempt basis, to comply with applicable tax and securities laws requirements.

WHEREAS, the County anticipates that it may incur expenditures in connection with the Project prior to the issuance of the 2015 Obligations and the completion of the financing (the “Expenditures”) and wishes to memorialize a declaration of official intent to use proceeds of the 2015 Obligations to reimburse the Expenditures in conformity with the requirements of United States Treasury Regulations Section 1.150-2.

WHEREAS, the County wishes to engage Orrick, Herrington & Sutcliffe LLP to serve as special counsel to the County in connection with the purchase and financing of the Project and the issuance of the 2015 Obligations.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE BOARD OF COMMISSIONERS AS FOLLOWS:

Authorization of Purchase of Project

Section 1. The County authorizes and directs the County Administrator, County Counsel, or their respective designees (each, an “Authorized Representative”), each acting individually, to act on behalf of the County to negotiate, enter into, execute and deliver the Purchase Agreement with the Seller in connection with the sale and purchase of the portion of the property comprising the Project to the County, upon approval of the sale of the property to the Seller by the Bankruptcy Court, on terms and conditions determined by the Authorized Representatives to be necessary to complete the purchase and sale and in the interest of the County, consistent with the purposes and intent of this Order.

Authorization of the 2015 Obligations and Financing of the Project

Section 2. Selection of Bank and Negotiation of Financing Documents. The County authorizes and directs the Authorized Representatives to act on behalf of the County to select a bank or underwriter to purchase the 2015 Obligations (the “Bank”) and to negotiate the interest rate, payment terms and other terms and conditions of the 2015 Obligations and the Financing Documents with the Bank and to execute and deliver the Financing Documents related to the sale, execution and delivery of the 2015 Obligations, and to determine and establish terms and conditions of the 2015 Obligations to be established as set forth in Section 7 below.

Section 3. Authorization of the 2015 Obligations; Financing Documents and Financing Payments.

(a) 2015 Obligations. The County authorizes the execution and delivery of the 2015 Obligations in an aggregate principal amount not to exceed \$2,500,000. The 2015 Obligations are authorized to be issued to finance the Project and shall be issued as tax-exempt obligations. The proceeds of the 2015 Obligations received by the County pursuant to the terms of the Financing Documents shall be used to pay or reimburse the County for all or a portion of the costs of the Project and any related transaction costs. The true interest cost of the 2015 Obligations shall not exceed 3.00% per annum.

(b) Terms of Sale. The County authorizes the 2015 Obligations to be sold by negotiated sale to the Bank and delegates to the Authorized Representatives the authority to establish the terms for the sale consistent with this authorization and as set forth in Section 7. All remaining terms of the 2015 Obligations and the Financing Documents relating to the sale, execution and delivery of the 2015 Obligations shall be established as provided in Section 7.

(c) Full Faith and Credit of the County. The punctual payment by the County of the financing payments (the "Financing Payments") due under the Financing Documents and with respect to the 2015 Obligations shall be secured by and payable from the County's general non-restricted revenues and other funds that are lawfully available for that purpose, including, revenues from any ad valorem tax authorized to be levied by and for the County within the restrictions of Sections 11 and 11b, Article XI of the Oregon Constitution, and revenues derived from other taxes, if any, levied by and for the County in accordance with and subject to limitations and restrictions imposed under applicable law or contract, that are not dedicated, restricted or obligated by law or contract to an inconsistent expenditure or use. The County pledges its full faith and credit and taxing powers to the payment of the Financing Payments as contemplated by ORS 287A.315, or any successor statute.

(d) No Lien or Security Interest on the Project. No lien or security interest on the Project will be granted to secure the Financing Payments.

Section 4. Form of 2015 Obligations. The 2015 Obligations shall be prepared by Special Counsel in substantially the form approved by an Authorized Representative. The 2015 Obligations may be printed or typewritten. The 2015 Obligations shall be subject to authentication, registration, payment, exchange and transfer as provided in the Financing Documents.

Section 5. Optional and Mandatory Prepayment. Amounts payable by the County under the Financing Documents and with respect to the 2015 Obligations may be subject to optional prepayment and mandatory prepayment prior to stated principal payment dates as determined by an Authorized Representative pursuant to Section 7.

Section 6. Tax-Exempt Status and Covenant as to Arbitrage. The County covenants to use the proceeds of the 2015 Obligations and to own and operate the Project, and to otherwise comply with the provisions of the Code so that any interest paid on or attributable to the 2015 Obligations will not be includable in gross income of the holders of the 2015 Obligations (the "Owners") for federal income tax purposes. The County specifically covenants:

(a) To comply with "arbitrage" provisions of Section 148 of the Code, and to pay any required rebates and penalties with respect to the 2015 Obligations;

(b) To own and operate the Project financed with the proceeds of the 2015 Obligations so that the 2015 Obligations are not "private activity bonds" under Section 141 of the Code; and

- (c) To comply with all reporting requirements.

The Authorized Representatives are authorized and directed to enter into covenants and execute a tax certificate on behalf of the County to protect the tax-exempt status of the interest paid on or attributable to the 2015 Obligations.

Section 7. Delegation for Establishment of Terms and Sale of the 2015 Obligations. Each Authorized Representative, acting singly, is authorized and directed, on behalf of the County without further approval of the Board to:

- (a) Establish the principal and interest component payment dates, principal component amounts, optional and mandatory prepayment provisions, if any, interest component amounts, premium and/or discount, if any, denominations, defeasance provisions and all other terms for the Financing Documents and the 2015 Obligations;

- (b) Make any covenants necessary or desirable to obtain favorable financing terms on the 2015 Obligations with respect to the pledge of the County's full faith and credit to secure the 2015 Obligations;

- (c) Negotiate the terms of, and execute and deliver the Financing Documents;

- (d) Designate the 2015 Obligations as tax-exempt obligations under the Code;

- (e) Enter into covenants regarding the use of the proceeds of the 2015 Obligations and the use of the Project to maintain the tax-exempt status of the 2015 Obligations;

- (f) Approve and authorize the preparation and distribution of a preliminary and final official statements or any other offering materials relating to the 2015 Obligations;

- (g) Obtain ratings on the 2015 Obligations if determined by an Authorized Representative to be in the best interest of the County and expend 2015 Obligation proceeds to pay for the ratings;

- (h) Negotiate the terms with the Bank under which the 2015 Obligations shall be sold and executed and deliver a purchase contract, if necessary, providing for the sale of the 2015 Obligations in the form approved by an Authorized Representative for the 2015 Obligations which incorporates those terms;

- (i) Approve the form of the 2015 Obligations and take actions necessary to qualify the 2015 Obligations for the book-entry system of The Depository Trust Company ("DTC");

- (j) Approve, execute and deliver a Continuing Disclosure Certificate pursuant to the Securities and Exchange Commission Rule 15c2-12, if required by the Rule;

- (k) Approve, execute and deliver closing documents and certificates relating to the sale of the 2015 Obligations and the execution and delivery of the 2015 Obligations and the other Financing Documents; and

- (l) Execute and deliver a certificate specifying the actions taken pursuant to this Order, and any other certificates, documents or agreements that an Authorized Representative determines are desirable or necessary for the sale and delivery of the 2015 Obligations in accordance with this Order.

Reimbursement of Expenditures

Section 8. Reimbursement of Expenditures. The County hereby declares its official intent to reimburse itself with the proceeds of the 2015 Obligations for any of the Expenditures incurred by it prior to the issuance of the 2015 Obligations.

Adoption of Post-Issuance Compliance Procedures.

Section 9. Adoption of Post-Issuance Compliance Procedures. The County hereby authorizes an Authorized Representative to prepare and incorporate into the financial practices of the County Post-Issuance Compliance Procedures to comply with applicable tax and securities laws requirements for the 2015 Obligations and future debt obligations of the County issued on a tax-exempt basis, and to ensure that interest on all tax-exempt obligations remains excludable from gross income under Section 103 of the Code.

Order to Constitute Contract

Section 10. Order to Constitute Contract. In consideration of the purchase and acceptance of any or all of the 2015 Obligations by the Owners, the provisions of this Order shall be part of the contract of the County with the Owners and shall be deemed to be and shall constitute a contract between the County and the Owners pursuant to ORS 287A.315 and ORS 287A.325, or any successor statute. The covenants, pledges, representations and warranties contained in this Order, or in the closing documents executed in connection with the 2015 Obligations, including without limitation the County's covenants and pledges contained in Section 3 of this Order, and the other covenants and agreements to be performed by or on behalf of the County shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such 2015 Obligations over any other thereof, except as expressly provided in or pursuant to this Order.

Appointment of Special Counsel

Section 11. Appointment of Special Counsel. The County hereby appoints Orrick, Herrington & Sutcliffe LLP as special counsel to the County with respect to the 2015 Obligations.

Authorization of Other Actions

Section 12. Other Actions. The Authorized Representatives are each hereby authorized and directed to negotiate, enter into and execute and delivery any and all other agreements, instruments, certificates and other documents, and to take and/or direct to be taken any and all other necessary and appropriate action to complete the purchase, sale, financing and improvement of the Project as may be determined by an Authorized Representative to be in the interest of the County, consistent with the purposes and intent of this Order.

Effective Date

Section 13. Effective Date of Order. This Order shall take effect immediately upon adoption by the Board.

ADOPTED by the Board and **SIGNED** by the Board this 1 day of October 2015.

DONE at McMinnville, Oregon this 1 day of October, 2015.

ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN
County Clerk

Allen Springer (voted "no")
Chair ALLEN SPRINGER

By: [Signature]
Deputy Lucy Flores Mendez

[Signature]
Commissioner MARY STARRETT

APPROVED AS TO FORM:

By: [Signature]
CHRISTIAN BOENISCH
County Counsel

[Signature]
Commissioner STAN PRIMOZICH

Accepted by Yamhill County
Board of Commissioners on
 10.1.15 by Board Order
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