

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

RESOLUTION NO. 2020-103

Authorizing the issuance, sale and delivery of general obligation bonds; designating an authorized representative; authorizing the execution and delivery of financial documents and related matters

The Multnomah County Board Of Commissioners Finds:

- a. The Board of Commissioners (the “*Board*”) of Multnomah County, Oregon (the “*County*”), is authorized pursuant to the Oregon Constitution and ORS 287A.100 to issue general obligation bonds to finance capital costs; and
- b. The issuance of the bonds will not result in the County exceeding the debt limit in ORS 287A.100(2) which states that “[u]nless the county charter provides a lesser limitation, a county may not issue or have outstanding at the time of issuance general obligation bonds in a principal amount that exceeds two percent of the real market value of the taxable property in the county, calculated as provided in ORS 308.207”; and
- c. On June 25, 2020, the County adopted Resolution No. 2020-057 authorizing submission to the voters of the County at a measure election on November 3, 2020, the question of contracting a general obligation bonded indebtedness in an amount not to exceed \$387,000,000 to finance capital costs as set forth in the notice of bond election and pay bond issuance costs; and
- d. The election was duly and legally held on November 3, 2020, and, within 20 days following the election, the elections officer of the County certified that the issuance of the general obligation bonds was approved by a majority of the qualified voters of the County voting at the election; and
- e. The Board determined the results of the election as required pursuant to Multnomah County Code § 5.106(E) on December 3, 2020; and
- f. The County adopts this resolution (the “*Resolution*”) to provide the terms under which the general obligation bonds will be sold and issued; to authorize the issuance of the general obligation bonds; and to classify the ad valorem taxes levied to pay debt service on the general obligation bonds as not being subject to the limits of Sections 11 and 11b, Article XI of the Oregon Constitution.

The Multnomah County Board Of Commissioners Resolves:

1. **BONDS AUTHORIZED.** The County hereby authorizes the issuance of general obligation bonds (the “*Bonds*”) in an aggregate principal amount not to exceed \$387,000,000, issued in one or more series, to finance the projects set forth in the ballot title for the Bonds.
2. The Bonds shall mature over a period not exceeding nine years from their date of issue. The remaining terms of the Bonds shall be established as provided in Section 10 hereof.
3. **DESIGNATION OF AUTHORIZED REPRESENTATIVE.** The Board designates the Chief Financial Officer (the “*Authorized Representative*”) or a designee of the Authorized Representative to act on behalf of the County as specified in Section 10 hereof.
4. **SECURITY.** Pursuant to ORS 287A.315, the County hereby pledges its full faith and credit and taxing power to pay the Bonds. The County hereby covenants for the benefit of those who shall own the Bonds from time to time (the “*Owners*”) to levy annually, as necessary, a direct ad valorem tax upon all of the taxable property within the County which is sufficient, after taking into consideration discounts taken and delinquencies that may occur in the payment of such taxes and other legally available amounts, to pay all Bond principal and interest when due. This tax shall be in addition to all other taxes of the County, and this tax shall not be limited in rate, amount or otherwise, by Sections 11 or 11b of Article XI of the Oregon Constitution.
5. **FORM OF BONDS.** The Bonds shall be issued in substantially the form as approved by the Authorized Representative. The Bonds may be printed or typewritten, and may be issued as one or more temporary Bonds which shall be exchangeable for definitive Bonds when definitive Bonds are available.
6. **EXECUTION OF BONDS.** The Bonds shall be executed on behalf of the County with the manual or facsimile signature of an Authorized Representative of the County.
7. **REDEMPTION.** The Bonds may be subject to optional redemption or mandatory redemption prior to maturity as determined under Section 10 hereof.
8. **TAX-EXEMPT STATUS.** If any portion of the Bonds are issued as federally tax-exempt Bonds, the County covenants to use the portion of those proceeds of the Bonds, and the facilities financed with such Bonds, and to otherwise comply with the provisions of the Internal Revenue Code of 1986, as amended (the “*Code*”), so that interest paid on such Bonds will not be includable in gross

income of the Owners for federal income tax purposes. The County specifically covenants:

- i. to comply with the “arbitrage” provisions of Section 148 of the Code, and to pay any rebates to the United States on the gross proceeds of such Bonds; and
- ii. to operate the facilities financed with the proceeds of such Bonds so that such Bonds are not “private activity bonds” under Section 141 of the Code; and
- iii. comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the County to protect the tax-exempt status of such Bonds.

9. DESIGNATION AS A “QUALIFIED TAX-EXEMPT OBLIGATION”. The Authorized Representative, upon the advice of Bond Counsel, may designate any series of the Bonds as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3)(B) of the Code.
10. DELEGATION FOR ESTABLISHMENT OF TERMS AND SALE OF THE BONDS. The Authorized Representative is hereby authorized, on behalf of the County without further action of the Board (and such actions of the Authorized Representative, if taken prior to the adoption of the Resolution, are hereby affirmed and authorized), to:
 - i. establish the principal and interest payment dates, principal amounts, interest rates, denominations, redemption provisions and all other terms for the Bonds to be issued;
 - ii. select an underwriter and proceed with a publicly offered sale of the Bonds or select a bank or other financial institution through a direct purchase or placement agent selected by the Authorized Representative;
 - iii. negotiate the terms of a bond purchase agreement with the underwriter or lender, or conduct a competitive sale, as determined by the Authorized Representative;
 - iv. determine if all or a portion of the Bonds shall be issued as federally tax-exempt or taxable obligations;

- v. enter into covenants regarding the use of the proceeds of the Bonds and the projects financed with the proceeds of the Bonds, and covenants to maintain the tax-exempt status of the Bonds, if applicable;
 - vi. appoint a registrar and paying agent for the Bonds, if necessary;
 - vii. take such actions as are necessary to qualify the Bonds for the book-entry only system of The Depository Trust Company if required;
 - viii. approve of and authorize the distribution of the preliminary and final official statements for the Bonds, if required;
 - ix. obtain one or more ratings on the Bonds if determined by the Authorized Representative to be in the best interest of the County, and expend Bond proceeds to pay the costs of obtaining such rating;
 - x. apply, if available and deemed appropriate, and expend Bond proceeds to pay any insurance premium;
 - xi. approve, execute and deliver a Continuing Disclosure Certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, § 240.15c2-12), if required;
 - xii. approve, execute and deliver the Bond closing documents and certificates;
 - xiii. make any clarifying changes or additional covenants not inconsistent with this Resolution; and
 - xiv. execute and deliver a certificate specifying the action taken by the Authorized Representative pursuant to this Section 10(xiv) and any other certificates, documents or agreements that the Authorized Representative determines are desirable to issue, sell and deliver the Bonds in accordance with this Resolution.
11. **DEFAULT AND REMEDIES.** The occurrence of one or more of the following shall constitute an Event of Default under this Resolution and the Bonds:
- i. Failure by the County to pay Bond principal, interest or premium when due (whether at maturity, or upon redemption after a Bond has been properly called for redemption);
 - ii. Failure by the County to observe and perform any covenant, condition or agreement on its part to be observed or performed for the benefit of Owners, for a period of 60 days after written notice to the County by the Owners of

51% or more of the principal amount of Bonds then Outstanding specifying such failure and requesting that it be remedied; provided however, that if the failure stated in the notice cannot be corrected within such 60 day period, it shall not constitute an Event of Default so long as corrective action is instituted by the County within the 60 day period and diligently pursued, and the default is corrected as promptly as practicable after the written notice referred to in this paragraph; or

- iii. The County is adjudged insolvent by a court of competent jurisdiction, admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy, or consents to the appointment of a receiver for the payments.

The Owners of 51% or more of the principal amount of Bonds then Outstanding may waive any Event of Default and its consequences, except an Event of Default as described in Section 11(i).

Upon the occurrence and continuance of any Event of Default hereunder the Owners of 51% or more of the principal amount of Bonds then Outstanding may take whatever action may appear necessary or desirable to enforce or to protect any of the rights of the Owners, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Resolution or the Bonds or in aid of the exercise of any power granted in this Resolution or in the Bonds or for the enforcement of any other legal or equitable right vested in the Owners by the Resolution or the Bonds or by law. However, the Bonds shall not be subject to acceleration.

No remedy in the Resolution conferred upon or reserved to Owners is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under the Resolution or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Owners to exercise any remedy reserved to them, it shall not be necessary to give any notice other than such notice as may be required by this Resolution or by law.

12. **DEFEASANCE.** The County may defease the Bonds by setting aside, with a duly appointed escrow agent, in a special escrow account irrevocably pledged to the payment of the Bonds to be defeased, cash or direct obligations of the United States in an amount which, in the opinion of an independent certified public accountant, is sufficient without reinvestment to pay all principal and

interest on the defeased Bonds until their maturity date or any earlier redemption date. Bonds which have been defeased pursuant to this Section shall be deemed paid and no longer outstanding, and shall cease to be entitled to any lien, benefit or security under this Resolution except the right to receive payment from such special escrow account.

13. ESTABLISHMENT OF FUNDS AND ACCOUNTS. The following funds and accounts shall be created into which the proceeds of the Bonds shall be deposited, which funds and accounts shall be continually maintained, except as otherwise provided, so long as the Bonds remain unpaid.

i. Debt Service Account. The County shall maintain the debt service account in the County's debt service fund for the payment of principal, premium, if any, and interest on the Bonds as they become due. All accrued interest, if any, and all taxes levied and other moneys available for the payment of the Bonds shall be deposited to the debt service account.

ii. Project Fund. The County shall maintain the project fund for the purpose of accounting for and paying all costs of the projects and the costs related to the preparation, authorization, issuance, and sale of the Bonds. Any interest earnings on moneys invested from the project fund shall be retained in the project fund. The County's share of any liquidated damages or other moneys paid by defaulting contractors or their sureties will be deposited into the project fund to assure the completion of the projects.

Upon completion of the projects and upon payment in full of all costs related thereto, any balance remaining in the project fund shall be deposited to the Debt Service Account for payment of debt service.

14. RESOLUTION TO CONSTITUTE CONTRACT. In consideration of the purchase and acceptance of any or all of the Bonds by the Owners, the provisions of this Resolution 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. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Bonds, including without limitation the County's covenants and pledges contained in Section 4 hereof, and the other covenants and agreements herein set forth 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 Bonds over any other thereof, except as expressly provided in or pursuant to this Resolution.

ADOPTED this 10th day of December, 2020.

**BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**



Deborah Kafoury

Deborah Kafoury, County Chair

**REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON**

By *William Glasson*
William Glasson, Senior County Attorney

SUBMITTED BY: Eric Arellano, Chief Financial Officer