



COUNCIL RESOLUTION NO. 5017

A RESOLUTION AUTHORIZING ECONOMIC DEVELOPMENT PROJECT REVENUE BONDS AS RECOVERY ZONE FACILITY BONDS TO FINANCE IMPROVEMENTS ON THE VACANT PARCEL LOCATED AT BROADWAY AND WILLAMETTE STREET AND ADJACENT TO THE CENTRE COURT BUILDING.

PASSED: 7:1

REJECTED:

OPPOSED:

Brown

ABSENT:

CONSIDERED: December 13, 2010

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The City Council of the City of Eugene, Oregon finds as follows:

A. The City has received a request from Bennett Management Company to issue economic development project revenue bonds to finance improvements (the "Project") on the vacant parcel located at Broadway and Willamette Street and adjacent to the Centre Court building, and to loan the bond proceeds to Bennett Management Company or an entity formed by Bennett Management Company (the "Borrower").

B. On August 11, 2010, the City Council supported the Project proposal in concept and directed the City Manager to bring back additional details for consideration.

C. On September 15, 2010, the City Council approved Resolution 5014, which authorized the City Manager to work with Bennett Management Company, its financing team and the City's bond counsel to develop documents and otherwise prepare for the sale of conduit recovery zone facility bonds for the Project. The resolution required additional City Council approval prior to issuance of the bonds.

D. ORS 280.410 to 280.485 (the "Act") authorizes the City to issue economic development project revenue bonds. Bonds issued under the Act are payable solely from the revenues and assets that the Borrower or another private party pledges to pay the Bonds, and are not liabilities of the City.

E. The American Recovery and Reinvestment Act of 2009 ("ARRA") allows the City's economic development project revenue bonds to qualify as "recovery zone facility bonds," but only if the bonds are issued by December 31, 2010. Recovery zone facility bonds allow the Borrower to obtain low-cost, tax-exempt financing that is ordinarily not available under federal law.

F. ARRA and Section 147 of the Internal Revenue Code of 1986, as amended, (the "Code") require that recovery zone facility bonds be approved by the City Council after a public hearing. A public hearing was held before a hearings official on November 15, 2010, and approval of this resolution will constitute approval of the recovery zone facility bonds that the City issues for the Project for purposes of Section 147 of the Code.

G. The Borrower is working with commercial banks and expects that a commercial bank or similar institution will purchase the bonds by December 31, 2010.

H. ORS 280.445 requires the City Council to consider the following factors before approving issuance of economic development project revenue bonds under the Act:

- (1) The bond market for the types of bonds proposed for issuance.
- (2) The terms and conditions of the proposed issue.
- (3) Whether the borrower, lessee or purchaser is financially responsible and fully capable and willing to fulfill all its obligations under the loan agreement.
- (4) Such other relevant factors as the governing body considers necessary to protect the financial integrity of the city.

I. In compliance with ORS 280.455, the City Council has considered the following:

(1) The bond market for economic development project revenue bonds that are issued as recovery zone facility bonds. City staff has indicated that conditions in the bond market for these bonds are generally favorable. However, the City will not pay the bonds, so the determination of market conditions is most appropriately made by the Borrower. The Borrower has requested that the City issue the bonds.

(2) The terms and conditions of the proposed bonds. The proposed bonds will be secured solely by the Project and rents and other amounts the Borrower obtains from the Project. The proposed bonds will be purchased and held by a commercial bank or similar institution and can not be sold in the public securities markets without the prior consent of the City. The proposed bonds will have terms that are acceptable to the Borrower and the bond purchaser. City staff and the City's bond counsel have indicated that these terms are typical for economic development project revenue bonds.

(3) The bond purchaser will determine whether the Borrower is financially responsible and fully capable and willing to fulfill its obligations under the loan agreement. The City has no obligation to pay the bonds and makes no determination about whether the Borrower is financially responsible and fully capable and willing to fulfill all its obligations under the loan agreement.

(4) Development of the Project will improve downtown Eugene. Recovery zone facility bonds will help reduce the cost of the Project.

J. The City has \$8 million of recovery zone facility bond volume cap available for this Project.

K. Pursuant to the City ordinance establishing procedures for approving economic development project revenue bonds under the Act, the City Council has considered the benefit to the community of the project, the availability of recovery zone facility bond volume cap for the project, and the likelihood that applicant will be successful in having the recovery zone facility bonds issued by December 31, 2010.

L. The City adopts this resolution to authorize the issuance of economic development project revenue bonds as recovery zone facility bonds to finance the Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Eugene, a municipal corporation of the State of Oregon, as follows:

Section 1: Authorization. The City hereby authorizes the issuance, sale and delivery of no more than \$8 million in principal amount of economic development project revenue bonds (the “Bonds”) to finance the Project pursuant to the Act. The Bonds shall be issued so that they are eligible for treatment as recovery zone facility bonds under ARRA and the Code.

Section 2: Security for Bonds. The Bonds shall be special, limited obligations of the City payable solely from the revenues and property provided by the Borrower. The Bonds will not constitute a debt of the City nor shall the Bonds be payable from any funds of the City or any tax levied upon any property within the City nor any other political subdivision of the State of Oregon.

Section 3. Limitations. The Bonds:

1. Shall not be payable from nor charged upon any funds other than the revenue pledged to the payment thereof, nor shall the City be subject to any liability thereon. No holder or holders of such bonds shall ever have the right to compel any exercise of the taxing power of the City to pay any such bonds or the interest thereon.
2. Shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, except the revenues and property pledged or otherwise committed by the Borrower.
3. Shall recite in substance that the Bonds, including interest thereon, are payable solely from the revenue pledged to the payment thereof, and that no Bond shall constitute a debt of the City or a lending of the credit of the City within the meaning of any constitutional or statutory limitation.

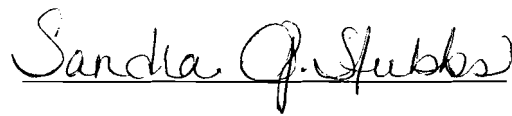
Section 5. Delegation. The City Manager or the person designated by the City Manager to act on behalf of the City pursuant to this resolution (each of whom is referred to in this resolution as the “City Official”) is hereby authorized on behalf of the City and without further action by the City Council, to:

1. Participate in the negotiation of the terms of Bond documents.
2. Execute and deliver an indenture of trust, a loan agreement, a bond purchase agreement, the Bonds and any other Bond documents the City Official determines will facilitate the issuance of the Bonds and the financing of the Project in accordance with this resolution.
3. Allocate recovery zone facility bond volume cap to the Bonds.
4. Engage the services of and designate pursuant to ORS 280.440(3) paying agents, remarketing agents, trustees, and any other professionals whose services are desirable for the financing.

5. Execute and deliver any related certificates or documents and take any other action in connection with the Bonds which the City Official finds are reasonably required to issue the Bonds or will be advantageous to the City.

Section 6: Effective Date of Resolution. This Resolution shall take effect immediately.

The foregoing resolution was adopted by the City Council on the 13th day of December, 2010.

A handwritten signature in cursive script that reads "Sandra J. Stubbs". The signature is written in black ink and is positioned above a horizontal line.

Deputy City Recorder