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COUNCIL RESOLUTION NO. 5026

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF ELECTRIC UTILITY SYSTEM REVENUE BONDS FOR THE PURPOSE OF FINANCING IMPROVEMENTS TO THE ELECTRIC UTILITY SYSTEM IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED Thirty six MILLION DOLLARS (\$36,000,000); AUTHORIZING THE ISSUANCE AND SALE OF ELECTRIC UTILITY REVENUE REFUNDING BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF not to exceed forty six million eight hundred thousand dollars (\$46,800,000) TO REFUND SERIES 1998A taxable BONDS AND SERIES 2001B BONDS; AND PROVIDING FOR RELATED MATTERS

PASSED: 7:0

REJECTED:

OPPOSED:

ABSENT: Taylor

CONSIDERED: March 14, 2011

RESOLUTION NO. 5026

A RESOLUTION AUTHORIZING THE ISSUANCE AND SALE OF ELECTRIC UTILITY SYSTEM REVENUE BONDS FOR THE PURPOSE OF FINANCING IMPROVEMENTS TO THE ELECTRIC UTILITY SYSTEM IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED THIRTY SIX MILLION DOLLARS (\$36,000,000); AUTHORIZING THE ISSUANCE AND SALE OF ELECTRIC UTILITY REVENUE REFUNDING BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED FORTY SIX MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$46,800,000) TO REFUND SERIES 1998A TAXABLE BONDS AND SERIES 2001B BONDS; AND PROVIDING FOR RELATED MATTERS

The City Council of the City of Eugene finds that:

- A.** Oregon Revised Statutes (“ORS”) Section 287A.150 and 287A.360 authorizes the City of Eugene, Oregon (the “City”) to issue revenue bonds and revenue refunding bonds payable from identified revenues of the City. The City, acting by and through the Eugene Water & Electric Board (“EWEB”), owns and operates an electric utility system and related facilities and systems.
- B.** On June 16, 1986, EWEB adopted a resolution authorizing and providing for the issuance, from time to time, of City of Eugene, Oregon Electric Utility System Revenue Bonds to be equally and ratably secured by the pledge of revenues, funds and accounts thereunder (as amended and supplemented, the “Bond Resolution”).
- C.** The Bond Resolution provides in part that the principal of, premium, if any, and interest on the bonds issued thereunder shall not be payable from any funds of the City nor constitute a general obligation of the City or create a charge upon the tax revenues or any other property or revenues of the City.
- D.** EWEB has requested by resolution that the City Council adopt this Resolution in part to set the terms for and authorize the issuance of not to exceed \$36,000,000 in aggregate principal amount of electric utility system revenue bonds (the “New Money Bonds”) for the purpose of financing the acquisition, design, construction, installation and equipping of certain capital improvements to the electric utility generating, transmission and distribution systems (collectively, the “New Money Project”), to fund necessary reserves and to pay the costs of issuance of New Money Bonds.
- E.** On May 18, 1993, the electors of the City of Eugene authorized issuance of up to \$150,000,000 of electric system revenue bonds (the “Election Authorization”). Subsequently, the City Council adopted Resolution No. 4571 authorizing the issuance of electric revenue bonds in an amount not to exceed \$15,000,000. Pursuant to that authorization, the City, acting by and through EWEB, issued the City of Eugene, Oregon Electric Utility System Revenue Bonds, Series 1998A (Federally Taxable) in the

principal amount of \$12,455,000 (the "Series 1998A Taxable Bonds"), which Series 1998A Taxable Bonds will be outstanding in the principal amount of \$8,295,000 as of August 1, 2011.

- F.** The City Council adopted Resolution No. 4690 authorizing the issuance of electric revenue bonds in an amount not to exceed \$40,000,000. Pursuant to that authorization, the City, acting by and through EWEB, issued the City of Eugene, Oregon Electric Utility System Revenue Bonds, Series 2001B in the principal amount of \$39,385,000 (the "Series 2001B Bonds"), which Series 2001B Bonds will be outstanding in the principal amount of \$33,385,000 as of August 1, 2011.
- G.** EWEB has determined that substantial present value savings may be achieved by issuing refunding bonds for the purpose of refunding (i) the outstanding Series 1998A Taxable Bonds which may be called and redeemed as of on any date on or after August 1, 2008, without premium, and (ii) the Series 2001B Bonds maturing on or after August 1, 2012, which may be called on and after August 1, 2011, without premium (collectively the "Refunded Bonds").
- H.** EWEB has requested by resolution that the City Council adopt this Resolution in part to set the terms for and authorize the issuance of not to exceed \$46,800,000 electric utility system revenue refunding bonds (the "Refunding Bonds") for the purpose of refunding the Refunded Bonds, to fund necessary reserves and to pay costs of issuance of the Refunding Bonds. The New Money Bonds collectively with the Refunding Bonds are referred to as the "Bonds".
- I.** The Bonds will not be general obligations of the City, nor a charge upon its tax revenues, but will be payable solely from revenues of the Electric Utility System which EWEB pledges to the payment of such Bonds pursuant to ORS Sections 287A.310 and 287A.325 and the resolution to be adopted by EWEB pursuant to this Resolution.
- J.** EWEB has by resolution undertaken to cause to be prepared a plan showing that EWEB's estimated Electric Utility System revenues are sufficient to pay the estimated debt service on the Bonds authorized by this Resolution.
- K.** The City and EWEB anticipate incurring expenditures ("Expenditures") to finance the costs of the New Money Project and wish to declare their official intent to reimburse themselves for the Expenditures made on the New Money Project from the proceeds of the New Money Bonds. To the extent that the expenditures and the use of proceeds of the New Money Bonds may qualify under federal tax law and regulations, the City, including EWEB, intends for the interest on such bonds to be excludable from gross income for federal income tax purposes under §103 of the Internal Revenue Code of 1986, as amended (the "Code").
- L.** EWEB has requested by resolution that the City Council adopt this Resolution in part to authorize the publication of the Notice of Revenue Bond Authorization relating to the New Money Bonds, such notice being in substantially the form attached to this Resolution as Exhibit "A" (the "Notice"). The Notice shall specify the last date on which

petitions may be submitted, and the City, acting by and through EWEB, shall cause the Notice to be published in *The Register-Guard*, a newspaper of general circulation within the boundaries of the City, in the same manner as are other public notices of the City.

NOW THEREFORE, based upon the above findings,

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 of New Money Bonds and Publication of Notice; Purpose of Issue. Based on the above findings, subject to the prior publication of the Notice and the expiration of the 60-day period following the publication of the Notice without the receipt of a petition for an election questioning the issuance of the New Money Bonds, which facts and circumstances shall be determined conclusively and for all purposes by any individual designated by EWEB, the City Council hereby authorizes EWEB, on behalf of the City, to issue and sell the New Money Bonds designated as the "City of Eugene, Oregon Electric Utility System Revenue Bonds," in one or more series, in the aggregate principal amount of not to exceed \$36,000,000, for the purpose of financing the New Money Project, and to fund any required reserves and costs of issuance, and to publish the Notice as aforesaid. If petitions for an election, containing the valid signatures of not less than 5 percent of the City's qualified electors, are received within the time indicated in the Notice, the question of issuing the New Money Bonds shall be placed on the ballot at the next legally available election date. If such petitions are received no New Money Bonds may be sold until the question of whether to issue the New Money Bonds is approved by a majority of electors living within the boundaries of the City who vote on that question. Any such petitions will be subject to ORS 287A.150 and §§2.960-2.1005 of The Eugene Code, 1971. Capitalized terms used but not defined herein shall have the meaning assigned in the Bond Resolution, unless the context clearly requires otherwise.

Section 2. Authorization of Refunding Bonds; Purpose of Issue. Based on the above findings, the City Council hereby authorizes EWEB, on behalf of the City, to issue and sell the Refunding Bonds designated as the "City of Eugene, Oregon Electric Utility System Revenue Refunding Bonds," in one or more series, in an amount not to exceed \$46,800,000 for the purpose of refunding Series 1998A Taxable Bonds and Series 2001B Bonds, and to fund any required reserves and costs of issuance of the Refunding Bonds.

Section 3. Conditions of Issuance and Sale. The City Council hereby prescribes that:

(a) The Bonds of each series shall: (i) mature not later than thirty (30) years from the date of issuance of the series; (ii) be sold through public competitive sale and awarded to the bidder offering the most favorable terms to EWEB, on behalf of the City, or sold pursuant to negotiation at par or with a net original issue discount or premium that does not exceed seven percent (7.0%) of the aggregate principal amount thereof; and (iii) have an effective interest rate of not to exceed seven percent (7.0%) per annum; and

(b) The proceeds of the Bonds shall be used only for the purposes above described.

Section 4. Delegation of Authority for Terms of Bonds; Provisions for Issuance. Pursuant to ORS 287A.300(4), EWEB, or any individual designated by EWEB, is hereby authorized and directed to determine, with respect to the Bonds, the form of bond and series designation, the manner of disbursement of proceeds of the Bonds, the maturity dates, principal amounts, redemption provisions, interest rates or the method for determining a variable or adjustable interest rate, obtain bond insurance or some other form of guaranty or security for the payment of the Bonds, denominations, form, authorized signatory, which of the Series 1998A Taxable Bonds and Series 2001B Bonds will be refunded, the terms and form of necessary or desirable documents and other terms and conditions of the Bonds because the same cannot be determined by the City Council at this time. Prior to the issuance of any Bonds, EWEB shall: (i) prepare a plan showing that the estimated Electric Utility System revenues are sufficient to pay the estimated debt service on the Bonds; (ii) adopt a bond resolution and provide a copy of such resolution to the City; and (iii) provide to the City a resolution determining that any and all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of the Bonds, exist, have happened and have been performed in due time, form and manner as required by the Constitution and statutes of the State of Oregon, the Charter of the City of Eugene and this Resolution.

Section 5. Declaring Intent To Reimburse. The City reasonably anticipates that the City and EWEB may incur preliminary, cost of issuance and other project expenditures that qualify as "Original Expenditures" under Treasury Regulation §1.150-2 prior to the date of issuance of the New Money Bonds, and hereby declares its official intent to reimburse itself or EWEB with proceeds of the sale of the New Money Bonds to be issued in an amount not to exceed \$36,000,000 in aggregate principal amount.

Section 6. Statement on Form of Bond. All Bonds shall include a statement on their face to the effect:

(a) That they do not in any manner constitute a general obligation of EWEB or of the City, or create a charge upon the tax revenues of the City, or upon any other revenues or property of the City, or property of EWEB, but are charges upon and are payable solely from the revenues of the Electric Utility System operated by EWEB, or any portion thereof, pledged to the payment thereof; and

(b) That the holders thereof may look for repayment only to the revenues of the Electric Utility System which are pledged for the payment thereof, and may not directly or indirectly be paid or compensated through the property of the City, or EWEB, or by or through the taxing power of the City.

Section 7. Bonds Payable Solely from Revenues. The Bonds shall not be general obligations of the City, nor a charge upon its tax revenues, but shall be payable solely from the revenues and funds which EWEB pledges to the payment thereof pursuant to ORS 287A.150 and 287A.360, any applicable authorizations and in accordance with this Resolution.

Section 8. Bonds Reporting. EWEB shall submit to the City by May 1 of each year the following annual reports commencing after the first sale of any Bonds or other evidences of indebtedness hereunder and each year thereafter until the Bonds have been paid and retired:

(a) A report on the funds for each series of Bonds describing the funds established, the amounts in each fund, expenditure from each fund, the manner in which the monies in each fund have been invested, the income from such investments and the application of such income; and

(b) A report on Bond payments describing amounts paid and amounts scheduled to be paid and the source of such payments.

If the contents of the reports required by subsections (a) and (b) above are included in the yearly audit report of EWEB, then EWEB may comply with this Section 7 by transmitting a copy of its yearly audit report to the City.

Section 9. Appointment of Professionals. EWEB is authorized to appoint bond counsel, disclosure counsel, financial advisor, a registrar and paying agent and any other professional assistance that EWEB determines is necessary or convenient to accomplish the issuance and sale of any or all of the Bonds.

Section 10. Official Statement; Sale Documents. EWEB or any party designated by EWEB is authorized to prepare and distribute or direct the preparation and distribution of one or more preliminary official statement(s) or other disclosure document(s) for any of the Bonds or in connection with a preliminary official statement or other disclosure document for any other bonds, as determined to be necessary by EWEB, to obtain bond insurance or other credit enhancement or commitments therefor, if required, to obtain a rating on any or all of the Bonds from Moody's Investors Service, Inc., Standard & Poor's and/or Fitch Ratings, if required, and to issue and publish such notices of sale of the Bonds as may be necessary or required to accomplish the sale of the Bonds in accordance with this Resolution and to select trustees, registrars, paying agents, financial advisor, bond counsel, disclosure counsel and any other professional assistance that may be necessary or convenient to accomplish the issuance and sale of any or all of the Bonds; and to determine any other terms, conditions or covenants regarding any or all of the Bonds or the New Money Project, which are necessary or desirable to effect the sale of any or all of the Bonds.

Section 11. Effective Date of Resolution. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution adopted by the City Council this 14th day of March 2011.



Deputy City Recorder

EXHIBIT A
FORM OF NOTICE OF REVENUE BOND AUTHORIZATION

NOTICE IS HEREBY GIVEN that the City Council of the City of Eugene, Oregon (the "City") has adopted Resolution No. _____ on March 14, 2011, authorizing the issuance of the City's revenue bonds acting by and through the Eugene Water & Electric Board ("EWEB"). The revenue bonds will be issued in one or more series to provide funds for the purpose of financing the acquisition, design, construction, installation and equipping of certain capital improvements to the electric utility generating, transmission and distribution systems (collectively, the "Project"), to fund necessary reserves and to pay the costs of issuance of the revenue bonds.

The costs of the Project to be funded, together with bond issuance costs and debt service reserves, are estimated not to exceed \$36,000,000. In accordance with these estimates, the City expects that the revenue bonds will be issued in an aggregate principal amount of not to exceed \$36,000,000.

Subject to certain parameters, EWEB may establish all terms, conditions and covenants regarding the revenue bonds and the revenues which are necessary or desirable to affect the sale of the revenue bonds.

The revenue bonds will not be general obligations of the City, nor a charge upon its tax revenues, but will be payable solely from the revenues of the City's Electric Utility System.

If written petitions, signed by not less than 5 percent of the City's qualified electors, are filed at the Office of the City Recorder on or before _____, 2011 (the 61st day after the date of publication of this notice), the question of issuing \$36,000,000 of electric revenue bonds shall be placed on the ballot at the next legally available election date. Any such petition shall be subject to ORS 287A.150 and Sections 2.960-2.1005 of The Eugene Code, 1971.

The Office of the City Recorder is located at 777 Pearl Street, Room 105, Eugene, Oregon 97401. Information on procedures for filing petitions may also be obtained at such address or by telephone at (541) 682-5042.

The resolution authorizing the revenue bonds is available for inspection at the Office of the City Recorder.

The revenue bonds will be issued and sold pursuant to ORS 287A.150, and this notice is published pursuant to ORS 287A.150(4).