

RESOLUTION NO. 1348

A RESOLUTION OF CITY OF CANBY, CLACKAMAS COUNTY, OREGON AUTHORIZING THE ISSUANCE AND SALE OF FULL FAITH AND CREDIT REFUNDING OBLIGATIONS, SERIES 2021 TO REFUND CERTAIN OUTSTANDING OBLIGATIONS OF THE CITY; DESIGNATING AN AUTHORIZED REPRESENTATIVE, UNDERWRITER, AND SPECIAL COUNSEL; AUTHORIZING APPOINTMENT OF A PAYING AGENT, REGISTRAR, ESCROW AGENT, MUNICIPAL ADVISOR AND VERIFICATION AGENT; AND AUTHORIZING EXECUTION AND DELIVERY OF A FINANCING AGREEMENT, ESCROW AGREEMENT, ESCROW DEPOSIT AGREEMENT AND PURCHASE AGREEMENT; AND RELATED MATTERS.

WHEREAS, City of Canby, Clackamas County, Oregon (the “City”) is authorized by Oregon Revised Statutes (“ORS”) Section 271.390 and 287A.315 to enter into financing agreements to finance and refinance real and personal property which the City determines is needed; and

WHEREAS, the City is advised it may be desirable to refund all or a portion of the City’s outstanding Full Faith and Credit Obligations, Series 2010 (the “Series 2010 Obligations”), all or a portion of the City’s Full Faith and Credit Obligations, Series 2011 (the “Series 2011 Obligations”), and all or a portion of the City’s Full Faith and Credit Refunding Obligations, Series 2012 (the “Series 2012 Obligations”) for debt service savings (collectively, the “Prior Obligations”); and

WHEREAS, the Series 2010 Obligations are dated December 28, 2010, and were in the original principal amount of \$2,500,000. The Series 2010 Obligations are subject to prepayment, in whole or in part, on or after December 15, 2020. The proceeds of the Series 2010 Obligations financed the costs of acquiring, constructing, and/or renovating NW 1st Avenue, related projects, and costs of issuance of the Series 2010 Obligations; and

WHEREAS, the Series 2011 Obligations are dated August 9, 2011, and were issued in the original principal amount of \$9,000,000. The Series 2011 Obligations are subject to prepayment in whole or in part, on or after June 1, 2021. The proceeds of the Series 2011 Obligations financed the costs of acquiring, constructing, equipping and furnishing a new police station, related projects, and costs of issuance of the Series 2011 Obligations; and

WHEREAS, the Series 2012 Obligations are dated December 20, 2012, and were issued in the original principal amount of \$14,050,000. The Series 2012 Obligations are subject to prepayment in whole or in part, on or after June 1, 2022. The proceeds of the Series 2012 Obligations financed the costs of acquiring, constructing, equipping and furnishing a new library, renovating an existing library and city hall, road and bridge improvements, related projects, and costs of issuance of the Series 2012 Obligations; and

WHEREAS, it is advantageous for the City to authorize and enter into a financing agreement to refinance all or a portion of the Prior Obligations, and pay costs of issuance of the obligations, and enter

into an escrow agreement which will authorize the escrow agent to issue full faith and credit obligations evidencing undivided proportionate interest in the amounts payable by the City under the financing agreement; and

WHEREAS, the City and the Canby Urban Renewal Agency (the “Agency”) wish to enter into an intergovernmental agreement whereby the Agency shall transfer to the City tax increment revenues and proceeds accumulated by the Agency for the payment of the Series 2021 Obligations.

WHEREAS, the weighted average life of the financing agreement may not exceed the estimated dollar weighted average life of the real and personal property financed and refinanced with the financing agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF CANBY CITY COUNCIL, CLACKAMAS COUNTY, OREGON, AS FOLLOWS:

Section 1. Authorization.

A. Issuance and Sale of Obligations. The Council of the City authorizes the issuance and sale of Full Faith and Credit Refunding Obligations, Series 2021 (the “Series 2021 Obligations”) in one or more series to refinance all, none or a portion of the Prior Obligations. The aggregate principal amount of the Series 2021 Obligations shall be in an amount sufficient to refund that portion of the Prior Obligations being refunded and related costs of issuance. The final maturity shall not be more than 11 years from the date of issuance of the Series 2021 Obligations. The Series 2021 Obligations may be issued in one or more series and as tax-exempt or taxable obligations, or a combination of both.

B. Financing Agreement. The City authorizes the execution and delivery of a financing agreement (the “Financing Agreement”), in a form satisfactory to the Authorized Representative, as defined below.

C. Escrow Agreement. The City authorizes the execution and delivery of an escrow agreement between the City and the escrow agent (the “Escrow Agreement”), in a form satisfactory to the Authorized Representative, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under the Financing Agreement, and evidencing the right of the escrow agent to receive the City’s payments under the Financing Agreement (the “Financing Payments”).

D. Intergovernmental Agreement. The City agrees to the terms and conditions of the Intergovernmental Agreement attached hereto as Exhibit A (the “IGA”), with such changes as are approved by the Authorized Representative (as defined below), and authorizes and directs the Authorized Representative to sign the IGA on behalf of the City.

Section 2. Financing Payments and Security. The Financing Payments for the Series 2021 Obligations shall be full faith and credit obligations of the City, payable from the general, non-restricted revenues 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 Financing Payments shall be a full faith and credit obligation of the City and is not subject to appropriation. The City may issue additional debt on parity with the Financing Agreement and the Series 2021 Obligations.

Section 3. Designation of Authorized Representative. Pursuant to ORS 287A.300(4), the City authorizes the City Administrator, Finance Director, or their designee (the “Authorized Representative”), to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement and the Series 2021 Obligations as delegated in below. The Authorized Representative is authorized, on behalf of the City, to:

A. determine if all, none, or a portion of the outstanding Prior Obligations shall be refunded and take whatever action is necessary to accomplish the refunding, including establishing an escrow deposit account under an escrow deposit agreement;

B. negotiate the terms under which the Series 2021 Obligations shall be sold, enter into a Purchase Agreement for sale of the Series 2021 Obligations, and execute and deliver the Purchase Agreement;

C. establish the maturity and interest payment dates, dated date, principal amounts, capitalized interest, if any, optional, extraordinary and/or mandatory redemption provisions, interest rates, denominations, and all other terms under which the Series 2021 Obligations shall be issued, sold, executed, and delivered;

D. negotiate the terms of and approve the Financing Agreement and the Escrow Agreement, and to execute and deliver the Financing Agreement and the Escrow Agreement and appoint an escrow agent;

E. determine whether the Series 2021 Obligations shall be Book-Entry certificates and to take such actions as are necessary to qualify the Series 2021 Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations;

F. determine whether to seek a rating(s) on the Series 2021 Obligations and enter into agreements with a rating agency(ies);

G. determine whether to purchase municipal bond insurance or other credit enhancement for the Series 2021 Obligations, negotiate and enter into agreements with providers of credit providers, and expend proceeds to pay credit enhancement fees;

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

I. designate a 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”) so long as the City and all subordinate entities do not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the calendar year in which the Financing Agreement is issued;

J. approve, execute and deliver a continuing disclosure certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, §240.15c2-12) for each series of Series 2021 Obligations;

K. deem final, approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Series 2021 Obligations;

L. engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing;

M. 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 or desirable to issue, sell and deliver the Series 2021 Obligations in accordance with this Resolution, and take any other actions which the Authorized Representative determines are necessary or desirable to refinance the Prior Obligations with the Financing Agreement and the Series 2021 Obligations in accordance with this Resolution.

Section 4. Escrow Deposit Agreement and Escrow Agent. The City shall enter into an Escrow Deposit Agreement for the establishment of an Escrow Deposit Fund to which shall be deposited sufficient proceeds from the Series 2021 Obligations to pay the principal of and interest on the Prior Obligations which are subject to the Escrow Deposit Agreement. The Authorized Representative is authorized to designate an Escrow Agent to administer the Escrow Deposit Fund and to execute the Escrow Deposit Agreement for and on behalf of the City.

Section 5. Transfer of Series 2021 Obligations. If the book-entry system is not utilized, the Series 2021 Obligations will be issued in certificate form. Then the Series 2021 Obligations are transferable, or subject to exchange, for fully registered Series 2021 Obligations in the denomination of \$5,000 each or integral multiples thereof by the registered owner thereof in person, or by the owner's attorney, duly authorized in writing, at the office of the Registrar. The Registrar shall maintain a record of the names and addresses of the registered owners of the Series 2021 Obligations.

All obligations issued upon transfer of or in exchange for Series 2021 Obligations shall evidence the same debt and shall be entitled to the same benefits as the Series 2021 Obligations surrendered for such exchange or transfer. All fees, expenses and charges of the Paying Agent and Registrar shall be payable by the City. The Registrar shall not be required to transfer or exchange any Series 2021 Obligation after the close of business on record date of the month next preceding any interest payment date or transfer or exchange any Series 2021 Obligation called or being called for redemption.

Section 6. Payment of Series 2021 Obligations. If at any time while the Series 2021 Obligations are outstanding the book-entry system ceases to be utilized, the principal of the Series 2021 Obligations shall be payable upon presentation of the Series 2021 Obligations at maturity at the principal corporate trust office of the Paying Agent. Payment of each installment of interest due each year shall be made by check or draft of the Paying Agent mailed on each interest payment date to the registered owner thereof whose name and address appears on the registration books of the City maintained by the Paying Agent as of the close of business on the record date as determined by the Authorized Representative.

Section 7. Form of Series 2021 Obligations. The Series 2021 Obligations shall be issued substantially in the form as approved by the Authorized Representative and Special Counsel.

Section 8. Appointment of Paying Agent and Registrar. The Authorized Representative is authorized to designate a Paying Agent and Registrar for the Series 2021 Obligations and to negotiate and execute on behalf of the City the Paying Agent and Registrar Agreement. In addition, the City requests and authorizes the Paying Agent and Registrar to execute the Series 2021 Obligations.

Section 9. Compliance with Internal Revenue Code. The City hereby covenants for the benefit of the Owners of the Series 2021 Obligations issued on a tax-exempt bases to use such Series 2021 Obligation proceeds and the projects refinanced with the tax-exempt Series 2021 Obligation proceeds in the manner required, and to otherwise comply with all provisions of the Code. 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 or Series 2021 Obligations issued on a tax-exempt basis to become arbitrage bonds under Section 148 of the Code.

B. The City shall operate the projects financed and refinanced with the Series 2021 Obligations issued on a tax-exempt basis so that such Series 2021 Obligations do not become “private activity bonds” 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 Series 2021 Obligations issued on a tax-exempt basis which are required by Section 148(f) of the Code.

The covenants contained in this Section and any covenants in the closing documents for the Series 2021 Obligations issued on a tax-exempt basis shall constitute contracts with the owners of such Series 2021 Obligations, 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 and the Series 2021 Obligations issued on a tax-exempt basis.

Section 10. Appointment of Underwriter. The City appoints Piper Sandler & Co. as Underwriter for the issuance of the Series 2021 Obligations.

Section 11. Appointment of Special Counsel. The City hereby appoints the law firm of Mersereau Shannon LLP as Special Counsel for the issuance of the Series 2021 Obligations.

Section 12. Appointment of Municipal Advisor. If desirable, the Authorized Representative is authorized to appoint a municipal advisor to the City in connection with the issuance of the Series 2021 Obligations.

Section 13. Appointment of Verification Agent. If desirable, the Authorized Representative is authorized to appoint a verification agent to confirm that the funds are sufficient to pay when due the principal and interest on the Prior Obligations which are being refunded.

Section 14. Conditional Redemption. Any notice of optional redemption may state that the optional redemption of the Series 2021 Obligations is conditional upon receipt by the Registrar of moneys sufficient to pay the redemption price of such Series 2021 Obligations or upon the satisfaction of any other condition, and/or that such notice may be rescinded upon the occurrence of any other event, and any conditional notice so given may be rescinded at any time before payment of such redemption price if any such condition so specified is not satisfied or if any such other event occurs. Notice of such rescission or of the failure of any such condition shall be given by the Registrar to the Registered Owner as promptly as practicable upon the failure of such condition or the occurrence of such other event.

Section 15. Defeasance. The City may defease the Series 2021 Obligations by setting aside, with a duly appointed escrow agent, in a special escrow account irrevocably pledged to the payment of the Series 2021 Obligations 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 Series 2021 Obligations until their maturity date or any earlier redemption date. Series 2021 Obligations which have been defeased pursuant to this Resolution 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.

Section 16. Continuing Disclosure. The City covenants and agrees to comply with and carry out all of the provisions of the Continuing Disclosure Agreement to be entered into in connections with the Series 2021 Obligations. Notwithstanding any other provision of this Resolution, failure by the City to comply with the Continuing Disclosure Agreement will not constitute an event of default under the Financing Agreement or the Escrow Agreement; however, any Registered Owner may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City to comply with its obligations under this Section and the Continuing Disclosure Certificate.

Section 17. Preliminary and Final Official Statement. The City shall, with the assistance of the underwriter, prepare or cause to be prepared a preliminary official statement for the Series 2021 Obligations which shall be available for distribution to prospective purchasers of the Series 2021 Obligations. The Authorized Representative is authorized to deem such preliminary official statement final pursuant to Rule 15c2-12 of the Securities and Exchange Commission. In addition, the City shall prepare, or cause to be prepared, a final official statement for delivery to the purchasers of the Series 2021 Obligations no later than the seventh (7th) business day after the sale of the Series 2021 Obligations. After determining that the final official statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, the Authorized Representative is authorized to certify the accuracy of the official statement on behalf of the City.

Section 18. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the Series 2021 Obligations by those who shall own the same from time to time (the

“Owners”), the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Series 2021 Obligations 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 Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Series 2021 Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 19. Post Issuance Compliance Procedures. The Authorized Representative is authorized to adopt, or modify existing, procedures regarding post issuance compliance related to tax-exempt and taxable obligations of the City.

Section 20. Effective Date. This resolution shall take effect on the date of its adoption.

Adopted by the Council of City of Canby, Clackamas County, Oregon, this 19th day of May 2021.

CITY OF CANBY
CLACKAMAS COUNTY, OREGON



Brian Hodson
Mayor

ATTEST:



Melissa Bisset
City Recorder

EXHIBIT A

INTERGOVERNMENTAL AGREEMENT

This 2021 Intergovernmental Agreement is executed this 19th day of May 2021, by and between the CITY OF CANBY, OREGON, a municipal corporation of the State of Oregon (the “City”) and the CANBY URBAN RENEWAL AGENCY, OREGON, a public body created and activated under ORS Chapter 457 (the “Agency”).

I. DEFINITIONS

For purposes of this 2021 Intergovernmental Agreement, unless the context clearly requires otherwise, the following capitalized terms shall have the following meanings:

“**2010 Intergovernmental Agreement**” means the intergovernmental agreement between the City and the Agency dated as of December 1, 2010, relating to the 2010 Obligations.

“**2011 Intergovernmental Agreement**” means the intergovernmental agreement between the City and the Agency dated as of May 4, 2011, relating to the 2011 Obligations.

“**2012 Intergovernmental Agreement**” means the intergovernmental agreement between the City and the Agency dated as of October 10, 2012, relating to the 2012 Obligations.

“**2010 Obligations**” means the City’s Full Faith and Credit Obligations, Series 2010 (Direct Payment Federally Taxable Recovery Zone Economic Development Bonds, Downtown Project), dated December 28, 2010, in the original principal amount of \$2,500,000.

“**2011 Obligations**” means the City’s Full Faith and Credit Obligations, Series 2011 (Police Station Project), dated August 9, 2011, in the original principal amount of \$9,000,000.

“**2012 Obligations**” means the City’s Full Faith and Credit Obligations, Series 2012 (Library and Industrial Park Projects), dated December 20, 2012, in the original principal amount of \$14,050,000.

“**2021 Intergovernmental Agreement**” means this intergovernmental agreement between the City and the Agency dated as of May 19, 2021, relating to the 2021 Obligations.

“**2021 Obligations**” means the City’s Full Faith and Credit Refunding Obligations, Series 2021 in the aggregate principal amount not to exceed \$20,000,000.

“**Agency**” means the Canby Urban Renewal Agency, Clackamas County, Oregon.

“**Agency Resolution**” means the Agency Resolution No. URR 21-005 adopted May 19, 2021.

“**Area**” means the Canby Urban Renewal Area which is described in the Plan and all additions thereto.

“**Authorized Representative of the Agency**” means, each individually, the Chair or the Agency Director or his designee.

“**Authorized Representative of the City**” means, each individually, the City Administrator or their designee.

“**City**” means the City of Canby, Clackamas County, Oregon.

“**City Resolution**” means City Resolution No. 1348 adopted May 19, 2021.

“**ORS**” means Oregon Revised Statutes.

“**Parity Indebtedness**” means obligations issued which are secured by a lien on, and pledge of, the Tax Increment Revenues which is on parity with the lien on, and pledge of, the Tax Increment Revenues securing the 2021 Obligations.

“**Plan**” means the Canby Urban Renewal Plan dated November 24, 1999, as amended June 23, 2009.

“**Tax Increment Revenues**” means all ad valorem tax revenues from property which are attributable to the increase in assessed value of property within the Area pursuant to Section 1c, Article IX of the Oregon Constitution and Oregon Revised Statutes, Chapter 457, and all earnings thereon.

II. RECITALS

- A. Pursuant to ORS 190.010, units of local government are authorized to enter into intergovernmental agreements with other units of local governments for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have the authority to perform.
- B. Each of the parties to this agreement is a “unit of local government” as defined in ORS Section 190.003. Each of the parties has the legal authority for the performance of any and all functions and activities set forth herein.
- C. The Agency, as the duly authorized and acting urban renewal agency of the City of Canby, Oregon is charged to undertake certain redevelopment activities in the redevelopment area pursuant to ORS Chapter 457 and the Plan.
- D. Pursuant to ORS 457.190, the Agency is authorized to borrow money and accept advances, loans, grants and any other form of financial assistance from a public body for the purposes of undertaking and carrying out urban renewal projects.
- E. Pursuant to ORS 457.320 the City is authorized to exercise any of its powers to assist in the planning or the carrying out of an urban renewal plan.
- F. Pursuant to ORS 271.390 the City has the power to enter into financing agreements and authorize the issuance of full faith and credit obligations on its behalf to finance and refinance real and personal property.
- G. The City and the Agency previously entered into the 2010 Intergovernmental Agreement in connection with the 2010 Obligations, the 2011 Intergovernmental Agreement in connection with the 2011 Obligations and the 2012 Intergovernmental Agreement in connection with the 2012 Obligations.
- H. The City expects to enter into a financing agreement and escrow agreement providing for the issuance of the 2021 Obligations to refinance the 2010 Obligations, the 2011 Obligations and the 2012 Obligations.
- I. The City and the Agency wish to enter into the 2021 Intergovernmental Agreement on connection with the 2021 Obligations.

III. AGREEMENT

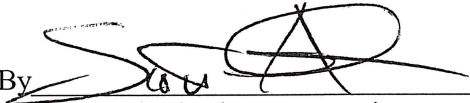
NOW, THEREFORE, pursuant to the provisions of ORS Chapters 457 and 190, and in consideration of the benefits to accrue to the City, the Agency, the community and the citizens from this 2021 Intergovernmental

Agreement and the 2021 Obligations, and in consideration of the covenants set forth therein, the City and Agency agree:

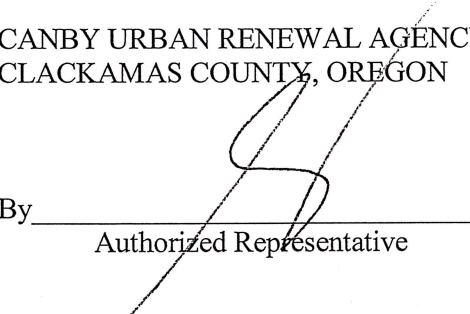
1. The Agency shall transfer Tax Increment Revenues and proceeds to the City in amounts and at times sufficient for the City to pay the 2021 Obligations under the terms set forth in the 2021 Obligation financing documents from those Tax Increment Revenues.
2. The Agency hereby irrevocably pledges the Tax Increment Revenues to make the transfers described in paragraph 1. above. The obligation of the Agency to make the transfers described in paragraph 1. above, shall constitute Parity Indebtedness. The lien on, and pledge of the Tax Increment Revenues to the 2021 Obligations shall be equal to the lien and pledge that secures all other Parity Indebtedness. The provisions of this 2021 Intergovernmental Agreement and the Agency Resolution shall be a contract with the City. The Agency has issued Parity Indebtedness in the past and reserves the right to issue Parity Indebtedness in the future. The Agency covenants and agrees that it will not incur any other form of indebtedness secured by a greater priority lien on the Tax Increment Revenues during the period any amounts are outstanding under this 2021 Intergovernmental Agreement.
3. The City agrees to take all steps required to qualify and maintain the 2021 Obligations as tax-exempt obligations.
4. The Agency agrees to take all steps required to qualify and maintain the 2021 Obligations as tax-exempt obligations.
5. The Agency covenants to cause the maximum amount of the Tax Increment Revenues to be collected each Fiscal Year.
6. The Agency may incur additional indebtedness secured by a lien on the Tax Increment Revenues subordinate to the lien of this 2021 Intergovernmental Agreement. Parity liens are permitted.
7. The City and Agency have each taken the actions necessary to authorize this 2021 Intergovernmental Agreement and no challenge or appeal to such actions is pending.
8. The Authorized Representatives are authorized to execute this 2021 Intergovernmental Agreement on behalf of their respective bodies.
9. This 2021 Intergovernmental Agreement may be modified upon written mutual agreement of the City and the Agency.
10. This 2021 Intergovernmental Agreement shall be effective as of the date first listed above and shall terminate upon defeasance of the 2021 Obligations and any obligations issued to refund the 2021 Obligations.
11. This 2021 Intergovernmental Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.

[Signature page follows]

CITY OF CANBY
CLACKAMAS COUNTY, OREGON

By  _____
Authorized Representative

CANBY URBAN RENEWAL AGENCY
CLACKAMAS COUNTY, OREGON

By  _____
Authorized Representative