

RESOLUTION NO. 2011-12-08

A RESOLUTION OF THE BOARD OF DIRECTORS OF MORROW COUNTY SCHOOL DISTRICT, MORROW AND GILLIAM COUNTIES, OREGON, AUTHORIZING PARTICIPATION IN THE OREGON SCHOOL BOARDS ASSOCIATION PENSION BOND PROGRAM; AUTHORIZING THE ISSUANCE AND SALE OF LIMITED TAX PENSION REFUNDING BONDS TO BE ISSUED IN ONE OR MORE SERIES.

WHEREAS, Morrow County School District, Morrow and Gilliam Counties, Oregon (the "District") previously issued its Limited Tax Pension Bond, Series 2002 (Federally Taxable) dated October 31, 2002 (the "Series 2002 Bond"); and

WHEREAS, the Board of Directors of the District is authorized pursuant to the Oregon Constitution and Oregon Revised Statutes Sections 287A.360 and 238.692 to 238.698 to issue current refunding bonds for the refunding of all or any portion of its outstanding Series 2002 Bond; and

WHEREAS, the principal installment of the District's Series 2002 Bond due June 30, 2021 is subject to prepayment, in part or in whole, on any date on or after June 30, 2007 upon notification to the Program Trustee 50 days prior to the prepayment date and deposit of principal plus accrued interest to the prepayment date not less than 45 days prior to the prepayment date; and

WHEREAS, the Oregon School Boards Association is sponsoring a pension bond refunding program for participating school districts and education service districts; and
WHEREAS, the Program provides that each participating district will be responsible solely for its obligations under its pension bond and/or bonds, and not for the obligations of any other district under any other pension bond and/or bonds, except to the extent assumed by a surviving district; now therefore,

THE BOARD OF DIRECTORS OF MORROW COUNTY SCHOOL DISTRICT, MORROW AND GILLIAM COUNTIES, OREGON RESOLVES:

SECTION 1. DEFINITIONS

Unless the context clearly requires otherwise, the following terms shall have the following meanings:

"Additional Charges" means the fees and other charges of the Program Trustee, as defined in the Program Trust Agreement, and any indemnity payments due under Section 6(4) of this Resolution.

"Available General Funds" means: (i) all the District's ad valorem property tax revenues received from levies under its permanent rate limit; and, (ii) all other unrestricted taxes, fees, charges, revenues and receipts of the District which Oregon law allows or will allow to be spent to make the Bond Payments.

"Bond" or "Bonds" refers to the District's Limited Tax Pension Refunding Bonds that are authorized by Section 2 of this Resolution.

"Bond Payment Date" means a date on which a Bond Payment is due.

“Bond Payment” means a principal or interest payment on a Bond, including accreted interest under any deferred interest bond, and any redemption premium which is due if Bond principal is prepaid.

“Business Day” means any day other than a Saturday, Sunday or a day on which the Trustee is authorized by law to remain closed.

“District” means Morrow County School District, Morrow and Gilliam Counties, Oregon, or its successors.

“Event of Default” refers to an Event of Default listed in Section 9(1) of this Resolution.

“Financial Advisor” means Seattle-Northwest Securities Corporation, Portland, Oregon.

“Government Obligations” means direct noncallable obligations of the United States of America (including obligations issued or held in book-entry form on the books of the Department of Treasury), or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America.

“Intercept Agreement” means the Intercept Agreement dated as of October 31, 2002, as it may be amended and supplemented from time to time.

“Intercept Payment” means the amount paid by the State to the Program Trustee on behalf of the District under the Intercept Agreement.

“Participants” or “Participating Districts” means school districts and education service districts that participate in the Program.

“Program” means the Oregon School Boards Association’s pooled pension bond program for school districts and education service districts.

“Program Obligations” means the obligations issued by the Program Trustee under the Program Trust Agreement which are payable from the Bond Payments and similar pension bond payments made by the other Participants in the Program.

“Program Trust Agreement” means a trust agreement, or an amendment to a trust agreement, between the Program Trustee and the Participants in which the Program Trustee agrees to hold the Bonds and to distribute the Bond Payments to the owners of Program Obligations.

“Program Trustee” means Wells Fargo Bank, National Association, as trustee under the Program Trust Agreement, or its successors and permitted assigns.

“Resolution” means this Resolution, including any amendments made in accordance with Section 7 of this Resolution.

“School District Official” means the Superintendent, Deputy Clerk or Business Manager of the District or the Superintendent’s designee.

“Security Payments” means the payments described in Section 4(3) of this Resolution.

“Series 2002 Bond” means the limited Tax Pension Bond, Series 2002 (Federally Taxable) dated October 31, 2002.

“Special Counsel” means Hawkins Delafield & Wood LLP.

“Sponsor” means the Oregon School Board Association, the sponsor of the Program.

“State” means the State of Oregon, or any agency thereof.

“State Education Revenues” means any State funding for school districts and educational service districts legally available to pay debt service on the pension bonds. Currently, such funds are appropriated each biennium and designated as the “State School Fund.”

“Underwriter” means the purchaser of the Series 2012 Obligations as determined by competitive bid upon the advice of the Financial Advisor and consent of the District.

SECTION 2. BONDS AUTHORIZED AND APPOINTMENT OF SPECIAL COUNSEL, FINANCIAL ADVISOR AND PROGRAM TRUSTEE

- (1) The District hereby authorizes the issuance, sale and delivery of the Bonds, in accordance with this Resolution and in an amount which does not exceed the amount necessary to refund the June 30, 2021 maturity of the District’s Series 2002 Bond and to pay costs of issuance.
- (2) The Bonds shall be “federally taxable bonds” which bear interest that is not excludable from gross income under Section 103(a) of the Internal Revenue Code of 1986, as amended. Interest will, however, be exempt from Oregon personal income taxation.
- (3) The District hereby appoints Hawkins Delafield & Wood LLP as Special Counsel, Seattle-Northwest Securities Corporation as Financial Advisor and Wells Fargo Bank, National Association as Program Trustee for the Bonds.

SECTION 3. DELEGATION

The School District Official may, on behalf of the District, and without further action by the Board:

- (1) Participate in the preparation of, authorize the distribution of, and deem final any official statement or other disclosure documents relating to the Bonds or the Program Obligations.
- (2) Establish the final principal amount, Bond Payment schedule, interest rates, sale price and discount, redemption terms, payment terms and dates, and other terms of the Bonds.
- (3) Negotiate the terms of and enter into a bond purchase agreement which provides for the acquisition of the Bonds by the Program Trustee.
- (4) Execute and deliver the Program Trust Agreement, which authorizes the Program Trustee to issue the Program Obligations, and any other agreements or documents which may be required for participation in the pension bond program sponsored by the Sponsor. Delivery of the Bonds to the Program Trustee shall constitute execution of the Program Trust Agreement by the District, and the District shall be bound by the Program Trust Agreement upon delivery of the Bonds to the Program Trustee.
- (5) Execute and deliver the Bonds to the Program Trustee, provided the Bonds shall also be executed with the facsimile signature of the Chair of the Board of Directors of the District.
- (6) Undertake to provide continuing disclosure for the Bonds and the Program Obligations in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- (7) Apply for ratings on the Bonds or the Program Obligations and purchase municipal bond

insurance or obtain other forms of credit enhancements for the Bonds or the Program Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.

(8) Execute and deliver the Intercept Agreement and any related documents.

(9) Execute and deliver any agreements or certificates and take any other action in connection with the Bonds, the Program Obligations, the Intercept Agreement, the Program Trust Agreement and PERS administrative rules which the School District Official finds is desirable to permit the sale and issuance of the Bonds and the Program Obligations in accordance with this Resolution.

SECTION 4. SECURITY FOR BONDS

(1) The District hereby pledges its full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution to pay the Bonds. The Bonds shall be current refunding bonds of the District and the District shall pay the Bonds from its Available General Funds. The District is not authorized to levy additional taxes to pay the Bonds.

(2) To provide additional security for the Bonds, the District agrees to enter into the Intercept Agreement.

(3) In the event funds under the Intercept Agreement are insufficient or unavailable or the Intercept Agreement is not in full force and effect for any reason, the District shall make payments (the "Security Payments") to the Program Trustee in accordance with the Program Trust Agreement. The Security Payments will provide the Program Trustee with amounts, after considering expected Intercept Payments, that are sufficient to make the scheduled Bond Payments.

(4) This Resolution shall constitute a contract with the Program Trustee, and the owners of the Program Obligations shall be third-party beneficiaries of that contract.

SECTION 5. REDEMPTION

The Bonds shall be subject to redemption on the dates and at the prices established by the School District Official pursuant to Section 3(2) and in accordance with the Program Trust Agreement.

SECTION 6. COVENANTS

The District hereby covenants and agrees with the Program Trustee for the benefit of the owners of the Program Obligations as follows:

(1) The District shall monitor the availability of State Education Revenues to make Intercept Payments and, to the extent Intercept Payments are insufficient, covenants to make Security Payments when due.

(2) The District shall promptly cause Security Payments and the principal, premium, if any, and interest on the Bonds to be paid as they become due in accordance with the provisions of this Resolution, the Program Trust Agreement and the Bonds.

(3) The District covenants for the benefit of the Program Trustee to pay the Additional Charges reasonably allocated to it by the Program Trustee, in accordance with the invoices for such Additional Charges which are provided by the Program Trustee.

(4) To the extent permitted by law, the District covenants and agrees to indemnify and to save the Program Trustee harmless against any loss, expense or liability which is reasonably allocable to

the District and which the Program Trustee may incur arising out of or in the exercise or performance of its duties and powers under the Program Trust Agreement relating to the Bonds, including the costs and expenses of defending against any claim or liability, or enforcing any of the rights or remedies granted to it under the terms of the Program Trust Agreement in connection with the Bonds, excluding any losses or expenses which are due to the Trustee's breach of fiduciary duties, negligence or willful misconduct. The obligations of the District under this Section 6(4) shall survive the resignation or removal of the Program Trustee under the Program Trust Agreement and the payment of the Program Obligations and discharge under the Program Trust Agreement and payment of the Bonds. The damages claimed against the District shall not exceed the damages which may be allowed under the Oregon Tort Claims Act, Oregon Revised Statutes Section 30.260, et seq., unless the provisions and limitations of such act are preempted by federal law, including, but not limited to the federal securities laws.

(5) The District covenants not to merge, consolidate, separate or dissolve unless the Bonds have been defeased or the obligation for payment of the Bonds has been assumed by the successor entity or entities.

SECTION 7. AMENDMENT OF RESOLUTION

The District may amend this Resolution only with the consent of the Program Trustee.

SECTION 8. STATE INTERCEPT AGREEMENT

The School District Official is hereby authorized to negotiate the terms of and to execute an Intercept Agreement under which appropriations from the State that would otherwise be paid to the District are diverted to the Program Trustee for the purpose of payment of debt service on the Bonds. Neither the Intercept Agreement nor its amendment shall relieve the District of its obligation to pay the Bonds.

SECTION 9. DEFAULT AND REMEDIES

(1) The occurrence of one or more of the following shall constitute an Event of Default under this Resolution:

(A) Failure by the District to pay Bond principal, interest or premium when due (whether at maturity, or upon redemption after the principal amount of Bond Payments have been properly called for redemption);

(B) Failure by the District to observe and perform any covenant, condition or agreement (other than as described in (A)) which this Resolution requires the District to observe or perform for the benefit of Program Trustee, which failure continues for a period of 60 days after written notice to the District by the Program Trustee 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 District 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 Section 9(1)(B); or,

(C) The District 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 installment payments.

(2) The District's failure to make Bond Payments or Security Payments constitutes an Event of Default as set forth above independently of whether or not the State complies with the provisions of the Intercept Agreement.

(3) The Program Trustee may waive any Event of Default and its consequences, except an Event of Default described in Section 9(1)(A).

(4) If an Event of Default occurs and is continuing the Program Trustee may exercise any remedy available at law or in equity; however, the Bond Payments shall not be subject to acceleration, and the District shall be responsible solely for its Bond Payments and any Additional Charges reasonably allocated to it.

(5) No remedy in this Resolution conferred upon or reserved to the Program Trustee is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Resolution or now or hereafter existing at law or in equity, including allowing the State to withhold future payments. 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 Program Trustee to exercise any remedy reserved to it, it shall not be necessary to give any notice other than such notice as may be required by this Resolution or by law.

SECTION 10. DEFEASANCE

The District may defease all or any portion of the Bond Payments in accordance with the Program Trust Agreement.

SECTION 11. RULES OF CONSTRUCTION

(1) In determining the meaning of provisions of this Resolution, the following rules shall apply unless the context clearly requires application of a different meaning:

(2) References to section numbers shall be construed as references to sections of this Resolution.

(3) References to one gender shall include all genders.

(4) References to the singular shall include the plural, and references to the plural shall include the singular.

SECTION 12. EFFECTIVE DATE

This resolution shall take effect on this 12th day of December, 2011.

**MORROW COUNTY SCHOOL DISTRICT,
MORROW AND GILLIAM COUNTIES, OREGON**

By: _____
Chair

ATTEST:

By: _____
Superintendent