



Work Session

WS

Milwaukie City Council



MILWAUKIE CITY COUNCIL WORK SESSION

City Hall Conference Room
10722 SE Main Street
www.milwaukieoregon.gov

REVISED AGENDA
APRIL 1, 2014

A light dinner will be served.

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|----|-----------|---|--|---|
| 1. | 5:00 p.m. | City Manager's Report | Bill Monahan | |
| 2. | 5:30 p.m. | Kellogg Lake Bike/Pedestrian Bridge Update | Light Rail Construction
Manager Stacy Bluhm | 1 |
| 3. | 5:45 p.m. | Creation of Hospital Facilities Authority Discussion | Bill Monahan | |
| 4. | 6:15 p.m. | Adjourn Work Session | | |

Executive Session: Immediately upon adjournment of the work session the City Council will meet in executive session pursuant to ORS 192.660(2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations and ORS 192.660(2)(f) to consider information or records that are exempt by law from public inspection.

Information

Executive Session: All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions as provided by ORS 192.660(3) but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

Public Notice

- The Council may vote in work session on non-legislative issues.
- The time listed for each discussion item is approximate. The actual time at which each item is considered may change due to the length of time devoted to the one previous to it.
- The Council requests that mobile devices be set on silent or turned off during the meeting.
- The City of Milwaukie is committed to providing equal access to information and public meetings per the Americans with Disabilities Act. For special accommodations, please call 503-786-7502 or email ocr@milwaukieoregon.gov at least 48 hours prior to the meeting.



Agenda Item: WS 2.
Meeting Date: 4/1/14

COUNCIL AGENDA ITEM SUMMARY

Issue/Agenda Title: Kellogg Pedestrian & Bike Bridge Connection to Lake Road

Prepared By: Stacy Bluhm, Light Rail Construction Manager

City Manager Approval: Bill Monahan

Reviewed by City Manager:

ISSUES BEFORE THE COUNCIL

Staff will present design concepts for the connection between SE Lake Road and the north end of the Kellogg Pedestrian & Bike Bridge.

STAFF RECOMMENDATION

This item is for discussion purposes. Staff is hoping to receive feedback from City Council regarding their thoughts on which design concept to pursue.

KEY FACTS & INFORMATION SUMMARY

Milwaukie's Light Rail Construction Manager will present two or more design concepts for the connection between Lake Road and the Kellogg Pedestrian & Bike Bridge. The difference in elevation between the walking surface of the bridge and the surface of the Lake Road sidewalk is about 9 feet which creates significant design challenges for this connection.

OTHER ALTERNATIVES CONSIDERED

Not applicable.

CITY COUNCIL GOALS

Not applicable.

ATTACHMENT LIST

None.

FISCAL NOTES

The City of Milwaukie is responsible for expenses associated with the Kellogg Pedestrian & Bike Bridge that exceed the 1.4 million that is currently budgeted for the project.



MILWAUKIE CITY COUNCIL
STAFF REPORT

WS 3.

To: Mayor and City Council

Through: Bill Monahan, City Manager

Subject: **Hospital Facilities Authority**

From: Bill Monahan, City Manager
Casey Camors, Finance Director

Date: March 27, 2014 for April 1, 2014 meeting

ACTION REQUESTED

Creation of Hospital Facilities Authority (HFA) discussion.

HISTORY OF PRIOR ACTIONS AND DISCUSSIONS

- City Staff approached by Doug Goe and Greg Blonde from Orrick, Herrington & Sutcliffe with interest from Rose Villa for the City to form HFA.
- City Staff meet again with Doug Goe and Greg Blonde to discuss details on formation of an HFA.
- City Staff meet with Vassar Byrd, Chief Executive Officer, and Debbie Senestraro Suchan, Chief Financial Officer, of Rose Villa and Doug Goe on site to tour the current facility, planned improvements to the facility and to discuss details of a potential HFA.

BACKGROUND

Many states, including Oregon, provide by law for the creation of public authorities called hospital facility authorities to allow public and private nonprofit health care facilities to pay for capital improvements through tax-exempt bonds. In 1973, the Oregon Legislative Assembly followed and helped facilitate this trend with the passage of the hospital facilities act, ORS 441.525 to ORS 441.595 (the "Act"). The Act provides that a hospital facility authority may be created by the governing body of a city, a county or a local health district.

To form an HFA, following a public hearing the governing body (city, county or local health district) adopts an ordinance or resolution:

1. Establishing the authority;
2. Designating a name, such as the "Hospital Facility Authority of the City of _____, Oregon";
3. Prescribing the number of directors who will serve on the Board of Directors. Oregon Revised Statute ("ORS") Section 441.535(2)(b) sets forth that not less than five nor more than eleven members shall serve on an authority board;
4. Setting the term limits; and
5. Appointing the initial Board of Directors.

The purpose of the authority is to assist in the financing of hospital facilities by issuing bonds which will be repaid from the revenues of the Borrower. The Borrower may be publicly owned, or it may be a private, nonprofit hospital or adult continuing care facility. The directors of the authority are not personally responsible for repayment of the bonds, and the bonds are not

regarded as obligations of the city or county creating the authority, or a charge on its tax revenues.

Principal duties of the board of directors are:

1. Determining that the construction or refinancing of the facilities is in the public interest.
2. Approving the legal documents to be satisfied that the financing arrangement is in the public interest and that the offering documents comply with the requirements of the federal securities laws.
3. Complying with reporting requirements for public officials in accordance with ORS Chapter 244.

The authority continues in existence so long as it has bonds outstanding. When all of the obligations of the authority have been paid, or provision has been made for their payment, the authority may be dissolved by the governing body which created it.

The City has been approached by Rose Villa and asked to consider forming an HFA so they may receive assistance in issuing tax exempt bonds. Currently, Rose Villa anticipates issuing approximately \$25,000,000 in bonds to fund the "New Rose Villa," redevelopment of part of their facility into a new neighborhood of apartment homes, garden cottages, shops and restaurants. City Staff, having participated in a site tour and meeting, is very impressed Rose Villa Staff and their current redevelopment plans.

Currently, Rose Villa is outside City limits in unincorporated Clackamas County. The City of Milwaukie may still form a HFA to assist Rose Villa, but Clackamas County will need to adopt a resolution granting approval for the bonds under the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") and approving an intergovernmental agreement with respect to the bonds. City Staff has contacted the County to discuss this approval and IGA.

City Staff believe that moving forward with the creation of the Hospital Facilities Authority is beneficial to all involved with minimal risk.

Rose Villa's timeline is to issue bonds in July to ensure cost stability. The following schedule, though very ambitious, can achieve Rose Villa's timeline:

- April 1, 2014 – City Council regular session: City Council (1) approves a motion to create a Hospital Facilities Authority and (2) calls for a public hearing to be held at the April 15, 2014 City Council meeting.
- April 15, 2014 – City Council regular session: (1) A public hearing is held and (2) the City Council adopts a Resolution establishing the Hospital Facilities Authority, designating the initial slate of Directors, and approving Authority bylaws.
- Between April 16 and April 30, 2014 - Hospital Facilities Authority meeting: Rose Villa and Ziegler Securities present the bond financing to the Authority. The Authority considers a Resolution granting preliminary approval of the bonds.
- May 30, 2014 - Hospital Facilities Authority meeting: The Authority holds a TEFRA hearing and forwards a hearing report to the City Council. The Authority considers a Resolution granting final approval of the bonds and the various bond documents.
- Before June 3, 2014: Clackamas County adopts a Resolution granting TEFRA approval for the bonds and approving an intergovernmental agreement with respect to the bonds.
- June 3, 2014 – City Council regular session: The City Council adopts a Resolution granting TEFRA approval for the bonds.

CONCURRENCE

City Manager, Finance Director, and City Attorney.

FISCAL IMPACTS

The City of Milwaukie would receive an administrative fee from Rose Villa (up to \$65,000). The directors serve without pay, but may receive reimbursement for their expenses incurred in the performance of their duties. These expenses and expenses of the HFA are paid by the Borrower seeking financing (Rose Villa).

WORK LOAD IMPACTS

Administrative functions of the FHA will need to be performed by City Staff and Bond Counsel. Additionally, HFA directors will need to attend meetings of the HFA.

ALTERNATIVES

Do not proceed with formation of a Hospital Facilities Authority.

ATTACHMENTS

1. Memorandum from Orrick, Herrington & Sutcliffe, LLP titled "Overview of Hospital Facilities Authorities in Oregon"



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MEMORANDUM

TO Bill Monahan and Casey Camors
City of Milwaukie

FROM Doug Goe and Gregory Blonde
Orrick, Herrington & Sutcliffe, LLP

DATE March 17, 2014

RE Overview of Hospital Facility Authorities in Oregon

Background. Many states, including Oregon, provide by law for the creation of public authorities called hospital facility authorities to allow public and private nonprofit health care facilities to pay for capital improvements through tax-exempt bonds. With the decline in the availability of direct federal funds for health care facilities, the use of tax-exempt financing for capital construction and improvements accelerated nationally in the 1970s. In 1973, the Oregon Legislative Assembly followed and helped facilitate this trend with the passage of the hospital facilities act, ORS 441.525 to ORS 441.595 (the “Act”). Thus, a hospital facility authority can play a crucial role in the financing of health care facilities. These health care facilities include hospitals and adult congregate care facilities (collectively, the “Borrower”).

Creation of an Authority. The Act provides that a hospital facility authority may be created by the governing body of a city, a county or a local health district. The purpose of the authority is to assist in the financing of hospital facilities by issuing bonds which will be repaid from the revenues of the Borrower. The Borrower may be publicly owned, or it may be a private, nonprofit hospital or adult continuing care facility.

An authority is usually created by the local city or county governing body. Following a public hearing, the governing body adopts an ordinance or resolution:

- (i) Establishing the authority;
- (ii) Designating a name, such as the “Hospital Facility Authority of the City of _____, Oregon”;
- (iii) Prescribing the number of directors who will serve on the Board of Directors. Oregon Revised Statute (“ORS”) Section 441.535(2)(b) sets forth that not less than five nor more than eleven members shall serve on an authority board;



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- (iv) Setting the term limits; and
- (v) Appointing the initial Board of Directors.

At least one director must be a member of the governing body. The directors are appointed by and serve at the pleasure of the governing body. The directors serve without pay, but may receive reimbursement for their expenses incurred in the performance of their duties. These expenses are usually paid by the Borrower which seeks financing. The authority continues in existence so long as it has bonds outstanding. When all of the obligations of the authority have been paid, or provision has been made for their payment, the authority may be dissolved by the governing body which created it.

Purpose of Authority. Usually, a hospital facility authority is created because a nonprofit health care or senior living facility in the community desires to expand or refinance existing indebtedness through tax-exempt bonds. If the program involves construction, the Borrower will have had plans and specifications prepared so that construction may commence when financing arrangements have been made. In each case, the Borrower and its accountants will have prepared a schedule of payment which the management believes can be met from future revenues. Frequently, a feasibility study will have been made by an accounting firm, an actuary or other professional advisor.

Repayment of Bonds. The bonds issued by a hospital facility authority are payable solely from the revenues and other assets of the Borrower, as described in the related bond documents. The directors of the authority are not personally responsible for repayment of the bonds, and the bonds are not regarded as obligations of the city or county creating the authority, or a charge on its tax revenues. A hospital facility authority does not have the power to levy taxes. The bonds are revenue bonds, and whether the investing public will buy them, and whether there will be revenues from the facilities to pay the bonds as they become due, depend upon the revenues of and the management of the facility. The Board of Directors of the hospital facility authority will want to satisfy themselves that the projections of revenues over the life of the bonds appear to be adequate to retire the bonds.

Issuance of Bonds. The law does not require that hospital facility bonds be sold at public competitive sale. They usually are sold on a negotiated basis to a bond underwriting firm or privately place with a bank.

The principal function of the Board of Directors of the hospital facility authority is to approve the documents which have been prepared by Bond Counsel. The attorneys for the Borrower and counsel for the underwriters prepare certain other bond documents depending on the type of



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transaction. The Board of Directors of the authority also determines that the issuance of the bonds is in the public interest and that, insofar as the Board can determine by the exercise of due diligence, the bonds are not being sold based upon misrepresentations.

How does the financing of hospital facilities through a hospital facility authority actually function? The state statutes provide considerable flexibility in the technical financial arrangements. In a fairly typical transaction, an authority issues bonds and loans the proceeds to a nonprofit corporation which owns and operates the hospital or adult congregate care facility, and the corporation repays the loan over a term of years. The authority may mortgage the facilities to a trustee, usually a bank with corporate trust powers. When the authority has issued and sold the bonds, the proceeds are paid to the trustee, who disburses the money in accordance with the instructions to the trustee. The lease or loan payments are made by the Borrower directly to the trustee. The trustee makes payment from these payments. These arrangements continue until all of the bonds have been paid, at which time the title to the hospital facilities will be reconveyed to the Borrower. Whether a given transaction will involve a transfer of title to the authority, or a mortgage, or a lease or a loan, or some other security device, and whether the Borrower pledges its gross revenues or its net revenues, are matters which are negotiated by the Borrower and the bond underwriter.

Post-Issuance Compliance Procedures. The Internal Revenue Code of 1986 (the “Code”) requires issuers of bonds, such as a hospital facility authority, to adopt post-issuance compliance guidelines that will ensure appropriate action is taken in order that interest on tax-exempt bonds remain excludable from gross income under the Code. The guidelines are intended to formally memorialize certain policies and procedures of an authority in connection with the issuance of its bonds. An example of guidelines are attached hereto as Exhibit A.

Reporting Requirements for Public Officials. Pursuant to ORS 244.050(1)(s), hospital facility authority board members are considered “public officials.” Public official is defined in ORS 244.020(14) as “any person who is serving the State of Oregon or any of its political subdivisions or any other public body as an elected official, appointed official, employee or agent.....” ORS 244.025(1) states that a public official may not receive any gift with an aggregate value in excess of \$50.00 from any single source. ORS 244.050(2) requires a public official to file with the Oregon Government Ethics Commission, on or before April 15 of each year, a statement of economic interest as required under ORS 244.060.

Securities Laws. The Securities and Exchange Commission requires issuers of bonds, including conduit issuers such as a hospital facility authority, to make sure that the bonds it issues



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and its Borrowers comply with the primary and continuing disclosure requirements of the federal securities laws.

As you will note, the principal duties of the directors are:

1. Determining that the construction or refinancing of the facilities is in the public interest. The authority does not have sole responsibility for determining the need for additional facilities in the community.

2. Approving the legal documents to be satisfied that the financing arrangement is in the public interest and that the offering documents comply with the requirements of the federal securities laws. In this connection, the Board of Directors will have the assistance of its bond counsel and the underwriter (and its counsel) in the actual preparation of the documents and in developing the official statement or any offering documents. The Board will also need to make sure that the Borrower has post-issuance compliance procedures in place to maintain the tax-exempt status of the Bonds and to make sure the Borrower complies with its continuing disclosure requirements.

3. Complying with reporting requirements for public officials in accordance with ORS Chapter 244.



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Following the issuance and sale of the bonds, payments will be made by the Borrower directly to the trustee, and the trustee will make payment to the bondholders. The Directors have no legal responsibility for making the payments.

Attached hereto as Exhibit B is a copy of the Act.

Other Approvals Required for Rose Villa Bonds. For any tax-exempt bonds issued on behalf of nonprofit corporations, including the proposed bonds for Rose Villa, federal tax law requires that the bonds be approved by the issuer and, if any of the financed assets are located outside the boundaries of the issuer, also by some governmental entity with jurisdiction over the area in which the extra-territorial facilities are located (the “Host Approval”). The City, as the parent of the issuer, would need to approve the issuance on behalf of the issuer. And, in the case of Rose Villa, either the Oak Lodge Water District or Clackamas County could give the Host Approval. In addition, because Rose Villa is located outside of the boundaries of the City, State law requires the authority to enter into an intergovernmental agreement with Clackamas County (or its hospital facilities authority) prior to the issuance of bonds.

EXHIBIT A

HOSPITAL FACILITY AUTHORITY OF _____, OREGON

POST-ISSUANCE COMPLIANCE GUIDELINES

Dated: _____, 20__

I. Purpose

These guidelines (the “Guidelines”) are adopted by the Hospital Facility Authority of the _____, Oregon (the “Issuer”) to ensure that appropriate action is taken in order that interest on tax-exempt bonds of the Issuer (the “Bonds”) remains excludable from gross income under Section 103 of the Internal Revenue Code of 1986 (the “Code”). The Guidelines are intended to formally memorialize certain policies and procedures of the Issuer previously adopted or followed by the Issuer in connection with the issuance of its Bonds.

The Issuer understands that failure to comply with the policies and procedures set forth in the Guidelines could result in the retroactive loss of the exclusion of interest on Bonds from federal gross income, and, thus, the Issuer will, in the Tax Certificate and Agreement for each issue of Bonds (the “Tax Certificate”), require the conduit borrower to consult with its legal counsel and with Orrick, Herrington & Sutcliffe LLP as bond counsel or other counsel nationally recognized in the area of municipal finance (“Bond Counsel”), in advance, regarding deviations from the facts and expectations as set forth in the closing certifications relating to any issue of Bonds.

II. Ongoing Relationship with Outside Advisors

The Issuer maintains an ongoing relationship with Bond Counsel and such other advisors as it deems necessary to serve as a resource for advice regarding the Bonds’ federal tax compliance.

III. Persons Responsible for Tax Compliance

The Issuer issues Bonds for the purpose of loaning the proceeds (the “Bond Proceeds”) to other entities (“Conduit Borrowers”) to finance or refinance certain assets (the “Bond-financed Assets”), and the Issuer relies upon representations and covenants of the Conduit Borrower in issuing the Bonds and executing the Tax Certificate and other documents in connection with the issuance of the Bonds. The Chair, the Vice Chair or the Secretary-Treasurer of the Issuer are the persons who generally execute the Bond documents, including the Tax Certificate. The Recording Secretary of the Issuer is a primary contact with respect to the Issuer’s Bonds. The Issuer relies upon actions by the Conduit Borrowers and upon the advice of its outside advisors for ongoing compliance matters with respect to the Bonds. The Issuer’s special legal counsel and Bond Counsel, Orrick, Herrington & Sutcliffe LLP, is the primary party to consult with the Conduit Borrowers and their legal counsel with respect to the Bonds.

In connection with an issuance of Bonds, the Issuer shall require the Conduit Borrower to adopt its own Post-Issuance Compliance Policies with respect to the Bonds of the Issuer and any other tax-exempt obligations that may be issued to benefit such Conduit Borrower.

IV. Investments/Role of Trustee

The investment of Bond Proceeds is managed by the Conduit Borrower through instructions to a bank trustee. Restrictions on such investments required by the Code are set forth in the Tax Certificate.

To the extent that unexpended Bond Proceeds are held by a bank trustee, the trustee is responsible for recording all investments and transactions relating to such Bond Proceeds. The trustee will provide to the Issuer and/or Conduit Borrower regular, periodic statements regarding the investments and transactions involving such Bond Proceeds. To the extent that unexpended Bond Proceeds are held by a party other than a bank trustee such other party is responsible for recording all investments and transactions relating to such Bond Proceeds. The other party will provide to the Conduit Borrower, and to the Issuer, upon request, Issuer regular, periodic statements regarding the investment and transactions involving such Bond Proceeds.

V. Arbitrage Rebate and Yield

The Issuer shall require the Conduit Borrower to represent and covenant in the Tax Certificate and other applicable bond documents to calculate, pay on a timely basis, and maintain all records with respect to rebate on the Bonds. Except for instances in which Bonds are issued to: (i) refund a prior issue that has no unexpended proceeds, and (ii) the Bonds do not have a debt service reserve fund, the Issuer shall direct the Conduit Borrower to engage an arbitrage rebate service provider to assist in the calculation of arbitrage rebate attributable to the investment of bond proceeds. The arbitrage rebate service provider will monitor to assure compliance with required rebate payments, if any, no later than each five (5) year period over the term of the Bonds and upon the final maturity date of each issue of Bonds. The Issuer shall retain copies of any Forms 8038-T that it executes in connection with an issue of Bonds pursuant to Section VII below.

VI. Impermissible Use of Bond Proceeds and Remedial Actions

The Issuer shall require a Conduit Borrower to notify the Issuer, by contacting the Issuer's Bond Counsel, prior to taking any actions with respect to Bond Proceeds or Bond-financed Assets which differ from the covenants and representations set forth in the Tax Certificate that may adversely affect the tax-exempt status of the Bonds. For this purpose, use includes the sale or lease of a Bond-financed Asset or use of a Bond-financed Asset by a non-employee manager or service provider pursuant to a management or service contract. Upon receiving such notification, Bond Counsel shall determine whether such proposed action may adversely affect the tax-exempt status of the Bonds and, if so, advise the Conduit Borrower what steps must be taken to preserve the tax-exempt status of the Bonds. Bond Counsel shall keep in the Issuer informed of such events.

In the event that Bond Counsel concludes that proposed actions of a Conduit Borrower will adversely affect the tax-exempt status of the Bonds, various remedies are available to the Issuer in the event of certain violations on the limits of use of Bond Proceeds, the investment of Bond Proceeds, and the use of the Bond-financed Assets. For example, a "change in use" of the Bond-financed Assets which results in excessive private business use may be corrected through a "remedial action" that is described in the Treasury Regulations. Such remedial actions include a defeasance of the portion of the Bonds affected by the excessive private business use.

In addition, the Issuer shall require a Conduit Borrower to notify the Issuer, by contacting its Bond Counsel, if such Conduit Borrower discovers that action has already been taken with respect to Bond Proceeds or Bond-financed Assets which differ from the covenants and representations set forth in the Tax Certificate that may adversely affect the tax-exempt status of the Bonds. For this purpose, use includes the sale or lease of a Bond-financed Asset or use of a Bond-financed Asset by a non-employee manager or service provider pursuant to a management or service contract. Upon receiving such notification, Bond Counsel shall advise the Conduit Borrower as to the affect of such action on the tax-exempt status of the Bonds (if any) and whether such action may be corrected through the Voluntary Closing Agreement Program described in IRS Notice 2008-31. Bond Counsel shall keep in the Issuer informed of such events.

VII. Record Keeping Requirements

The Issuer, in the Tax Certificate for each issue of Bonds, shall require the Conduit Borrower to maintain a copy of all relevant documents and records sufficient to support that the federal tax requirements relating to the Bonds for the term of the Bonds (including refunding bonds, if any) plus three years, including the following documents and records:

- Bond closing transcript and other relevant documentation.
- Documents created by the Conduit Borrower relating to the allocation of Bond Proceeds to expenditures.
- Documents created by the Conduit Borrower regarding its use of Bond-financed Assets and any contracts and arrangements with outside parties involving use of the Bond-financed Assets.
- All records of investments, investment agreements (including the solicitation and all responses received from the bidding of any investment agreement), United States Treasury Securities-State and Local Government Series (“SLGs”) subscription information, arbitrage reports, return filings with the IRS and supporting/substantiating documents.

Such records may be in the form of documents or electronic copies of documents, appropriately indexed to specific Bond issues and compliance functions.

VIII. Information Return Filings

The Issuer shall arrange for the compliance with IRS information return filing requirements (e.g., IRS 8038 forms) on a timely basis as advised by legal counsel and Bond Counsel.

EXHIBIT B

ORS 441.525 THROUGH 441.595

FINANCING OF HEALTH CARE FACILITIES CONSTRUCTION

441.525 Definitions for ORS 441.525 to 441.595. As used in ORS 441.525 to 441.595, unless the context requires otherwise:

(1) “Adult congregate living facility” means any institution, building or buildings, residential facility for elderly persons and persons with disabilities, or other place, operated as a nonprofit corporation which undertakes through its ownership or management to provide housing, meals and the availability of other supportive services.

(2) “Authority” means any public authority organized or existing pursuant to ORS 441.525 to 441.595.

(3) “Governing body” means the county court, board of county commissioners, council or other legislative body of any municipality.

(4) “Hospital facility” means any structure, system, machinery, equipment or other real or personal property useful for or incidental to inpatient or outpatient care or administration, service or support for such care or any combination thereof which is provided by a political subdivision of this state or any private nonprofit corporation, which is operating or proposes to operate an adult congregate living facility, or a health care facility as defined by ORS 442.015.

(5) “Municipality” means any health district, city or county and further means any municipal corporation resulting from a city-county or city consolidation or a merger of cities. [1973 c.153 §2; 1981 c.161 §1; 1983 c.740 §157; 1989 c.224 §94; 2007 c.70 §241]

441.530 Policy. In order to provide the people of Oregon with access to adequate medical care and hospital facilities, the Legislative Assembly finds that it is necessary and desirable to authorize the creation in the several counties and cities of public authorities having the power to acquire, own, lease, sell and otherwise dispose of hospital facilities, and to authorize municipalities which create authorities to utilize those authorities to issue bonds and other obligations on behalf of such municipalities in order that the municipalities may provide hospital facilities. [1973 c.153 §1; 1977 c.201 §2]

441.532 Municipalities authorized to create authority; issuance of obligations; conditions; purpose of authority. Only a municipality may create an authority. Such a municipality may utilize an authority to issue obligations on behalf of the municipality in order to provide hospital facilities for the people of the municipality. No authority shall issue obligations on behalf of more than one municipality. An authority shall not be created or continued in existence for any

purpose other than to provide hospital facilities as provided in ORS 441.525 to 441.595. [1977 c.201 §3]

441.535 Procedure to create public authority. (1) A governing body may upon its own motion, and shall upon the written request of any three or more natural persons, consider whether it is advisable to create a public authority for the purpose of providing hospital facilities.

(2) If the governing body, after public hearing according to its rules, determines that it is wise and desirable to create in a public authority the power and duties set forth in ORS 441.525 to 441.595, it shall by ordinance or resolution establish such an authority. The ordinance or resolution shall set forth:

(a) The name of the authority, which shall be “The Hospital Facility Authority of (Municipality), Oregon” or other similar distinctive name.

(b) The number of directors of the authority, which shall not be less than five nor more than 11.

(c) The names of the initial directors and their terms of service, which shall not exceed six years. At least one director shall also be a member of the governing body. Such director shall serve only so long as the director is a member of the governing body and, in any event, no longer than six years.

(d) Such other provisions as may be appropriate and not inconsistent with ORS 441.525 to 441.595 or the laws of Oregon.

(3) Upon the adoption of such an ordinance or resolution, the authority shall be deemed established as a municipal corporation of this state and as a body corporate and politic exercising public powers.

(4) An authority so organized shall have all the powers and duties contained in ORS 441.525 to 441.595. The governing body, at its sole discretion and at any time, may alter or change the structure, organization, programs or activities of the authority, subject to any limitations imposed by law on the impairment of contracts. The governing body may dissolve the authority at any time, provided the authority has no bonds or other obligations outstanding. [1973 c.153 §3; 1977 c.201 §4]

441.540 Board of directors; rules; conflict of interest; quorum; personnel. (1) An authority shall be managed and controlled by a board of directors, who shall be appointed by the governing body. The directors may be removed for cause or at the will of the governing body. The directors shall serve without compensation. However, the authority may reimburse the directors for their expenses incurred in the performance of their duties.

(2) The board of directors shall adopt and may amend rules for calling and conducting its meetings and carrying out its business and may adopt an official seal. All decisions of the board

shall be by motion or resolution and shall be recorded in the board's minute book which shall be a public record. A majority of the board shall constitute a quorum for the transaction of business and a majority thereof shall be sufficient for the passage of any such motion or resolution.

(3) The board may employ such employees and agents as it deems appropriate and provide for their compensation.

(4) Notwithstanding the exception for pecuniary benefit or detriment described in ORS 244.020 (12)(c), a director is a public official subject to the requirements of ORS chapter 244 based on an actual conflict of interest or a potential conflict of interest arising out of the director's relationship with a nonprofit corporation that is tax-exempt under section 501(c) of the Internal Revenue Code, including employment with the nonprofit corporation or a relationship with a foundation that provides assistance to the nonprofit corporation. [1973 c.153 §4; 1977 c.201 §5; 2007 c.813 §1; 2009 c.68 §20]

441.545 Authority may not levy taxes. An authority shall not have the right or power to levy taxes or to operate a hospital facility. [1973 c.153 §5]

441.550 General powers. Except as otherwise provided in ORS 441.545, an authority shall have all powers necessary to accomplish the purpose of providing hospital facilities for the people of Oregon, including without limitation the power:

(1) To sue and be sued in its own name.

(2) To acquire by purchase, construction, exchange, gift, lease, or otherwise, and to improve, extend, maintain, equip and furnish hospital facilities, which hospital facilities may be either within or without the corporate limits of the municipality by which the authority is created.

(3) To lease such hospital facilities to any one or more political subdivisions of this state or any private nonprofit corporations which are operating or propose to operate an inpatient care facility subject to the licensing and supervision requirements of ORS 441.015 to 441.087, 441.525 to 441.595, 441.815, 441.820, 441.990, 442.342, 442.344 and 442.400 to 442.463 upon such terms and conditions as the board deems appropriate, to charge and collect rents and to terminate any such lease upon default of the lessee.

(4) To enter into options and agreements for the renewal or extension of such leases of hospital facilities or for the conveyance of such hospital facilities.

(5) To sell, exchange, donate and convey any or all of its hospital facilities or other assets.

(6) To borrow money and to issue notes and revenue bonds for the purpose of carrying out its powers.

(7) To mortgage and pledge its assets, or any portion thereof, whether then owned or thereafter acquired, to pledge the revenues and receipts from such assets, to acquire, hold, and dispose of

mortgages and other similar documents relating to hospital facilities, and to arrange and provide for guarantee and other security agreements therefor.

(8) To loan money for the construction of and improvements to hospital facilities.

(9) To enter into contracts, leases and other undertakings in its own name.

(10) To adopt and amend ordinances and resolutions. [1973 c.153 §6; 1983 c.413 §1]

441.555 Issuance of revenue obligations; nature of obligation; refunding. (1) To accomplish its purposes, an authority shall have the power to issue revenue obligations payable from the revenues derived by it from repayment of loans or from its ownership or sale of any one or more hospital facilities. The issuance of revenue obligations is governed by the provisions of subsections (2) to (8) of this section, and is not subject to the prior approval of the electors of the municipality.

(2) The authority shall issue revenue obligations only by bond resolution duly adopted by its board of directors. The bond resolution shall specify the public purposes for which the proceeds of the revenue obligations shall be expended, declare the estimated cost of carrying out such purposes, contain such covenants, and provide for the issuance and sale of revenue obligations in such form and amount as the directors determine. In declaring such cost, the directors may include the funds necessary for working capital during construction, reserves, interest during construction, the payment of organizational, planning, financing and legal expenses, the repayment of advances and the start-up costs. The bond resolution may provide that hospital facilities subsequently acquired or constructed by the authority shall be deemed betterments or additions to, or extensions of, the specified hospital facility, whether or not physically connected.

(3) The bond resolution shall provide for the establishment of one or more special funds, and such funds may be under the control of the board or one or more trustees. The bond resolution shall obligate the authority to deposit and expend the proceeds of the revenue obligations only into and from such fund or funds, and to set aside and pay into such fund or funds any fixed proportion or fixed amount of the revenues derived by it from any or all of its hospital facilities or other corporate activities, as the board finds in the best interest of the authority and the payment of its obligations. The authority may issue and sell revenue obligations payable as to interest and principal only out of such fund or funds.

(4) Any revenue obligations issued against any fund or funds provided for in subsection (3) of this section shall be a valid claim of the holder thereof only as against such special fund or funds, the proportion or amount of the revenues pledged to such fund or funds and such assets as the authority may have pledged. Each such revenue obligation shall state on its face that it is payable from a special fund or funds, naming the fund or funds and the resolution creating it or them.

(5) Any pledge of revenues or other moneys or obligations or assets made by an authority shall be valid and binding from the time that the pledge is made against any parties having subsequent claims of any kind in tort, contract, or otherwise against an authority, irrespective of whether such parties have actual notice thereof. The pledge shall be noted in the authority's minute book which shall be constructive notice thereof to all parties and neither the resolution nor other instrument by which a pledge is created need be otherwise recorded, nor shall the filing of any financing statement under the Uniform Commercial Code be required to perfect such pledge. Revenues or other moneys or obligations or assets so pledged and later received by an authority shall immediately be subject to the lien of the pledge without any physical delivery or further act.

(6) The revenue obligations issued under the provisions of subsections (1) to (5) of this section shall bear such date or dates, mature at such time or times, be in such denominations, be in such form, either coupon or registered or both, carry such registration privileges, be made transferable, exchangeable and interchangeable, be payable in such medium, at such place or places, contain such covenants, and be subject to such terms of redemption as the board of directors shall declare in the bond resolution.

(7) Notwithstanding any other provision of law, the revenue obligations issued by an authority may be sold by the board of directors upon such terms and conditions and at such rate or rates of interest and for such price or prices as it may deem most advantageous to the authority, with or without public bidding. The authority may make contracts for future sale from time to time of revenue obligations by which the contract purchasers shall be committed to the prices, terms and conditions stated in such contract, and the board of directors may pay such consideration as it deems proper for such commitments.

(8) The board of directors may provide by resolution for the issuance of funding and refunding revenue obligations in order to refund, convert, purchase or restructure any one or more series, or portion of a series, of outstanding revenue obligations at such time or times as it may determine. Such refunding revenue obligations may be sold or exchanged at par or otherwise as the board of directors determines is in the best interest of the authority.

(9) All revenue obligations issued pursuant to this section shall be legal securities that may be used by any insured institution or trust company, as those terms are defined in ORS 706.008, for deposit with the State Treasurer or a county treasurer or city treasurer, as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys and shall constitute legal investments for public bodies, trustees and other fiduciaries, banks, savings and loan associations, and insurance companies. All such revenue obligations and all coupons appertaining thereto shall be negotiable instruments within the meaning of and for all purposes of the law of this state. [1973 c.153 §7; 1983 c.413 §2; 1997 c.631 §471; 2011 c.256 §4]

441.560 Borrowing; bond anticipation notes. An authority may borrow from banks or other lenders such sums on such terms as the board of directors deems necessary or advisable. An

authority may also issue, sell and assume bond anticipation notes or their equivalent, which shall bear such date or dates, mature at such time or times, be in such denominations and in such form, be payable in such medium, at such place or places, and be subject to such terms of redemption, as the board deems necessary or advisable. [1973 c.153 §8]

441.565 Obligations of authority not obligations of municipality. The revenue bonds and other obligations of an authority shall not be a general obligation of the municipality nor a charge upon the tax revenues of the municipality. [1973 c.153 §9]

441.570 Payment of principal and interest. The board of directors shall establish rentals, selling prices, and other charges at least adequate to pay the principal of and interest on the obligations of the authority as the same become due, including payments to any special fund or funds, together with the financing and other costs of the authority. [1973 c.153 §10]

441.575 Authorities may act jointly. All powers and responsibilities provided in ORS 441.525 to 441.595 may be exercised and discharged by two or more authorities acting jointly to effectuate the purposes of ORS 441.525 to 441.595. [1973 c.153 §11]

441.580 Authority as public body; tax status of assets, income and bonds. An authority is hereby declared to be a public body performing a public function. Accordingly, an authority, all assets at any time owned by it, the income therefrom, and all bonds issued by an authority, together with the coupons applicable thereto, and the income therefrom, shall be exempt from all taxation in the State of Oregon; provided, however, that real and personal property owned by the authority and leased to a third party shall be subject to property taxation if such property would be subject to taxation if owned by the lessee thereof. All bonds issued by an authority shall be deemed to be securities issued by a political subdivision of the State of Oregon. [1973 c.153 §12]

441.585 Disposition of excess earnings; disposition of assets on dissolution. The earnings of the authority in excess of the amount required for the retirement of indebtedness or the accomplishment of the purposes stated in ORS 441.525 to 441.595 shall not inure to the benefit of any person or body other than the municipality creating the authority. Upon dissolution of an authority, any assets remaining after provision for payment of the obligations and expenses of the authority shall become the assets of the municipality. [1973 c.153 §13; 1977 c.201 §6]

441.590 Authority granted by ORS 441.525 to 441.595. ORS 441.525 to 441.595 are complete authority for the organization of authorities and for the issuance and sale of revenue bonds and refunding revenue bonds. Any restrictions, limitations, conditions or procedures provided by other statutes, including but not limited to the provisions of ORS chapter 198 and ORS 440.305 to 440.410, do not apply to the organization of authorities and the issuance and sale of revenue bonds pursuant to ORS 441.525 to 441.595. However, nothing contained in ORS 441.525 to 441.595 shall be construed as a restriction or limitation upon any powers which an authority might otherwise have under any law of this state or the charter of any municipality. [1973 c.153 §14; 2005 c.443 §25]

441.595 Construction of ORS 441.525 to 441.595. ORS 441.525 to 441.595 shall be liberally construed to effect its purposes. In the event that any portion of ORS 441.525 to 441.595 is declared invalid or otherwise unenforceable by a court of record, the remaining provisions of ORS 441.525 to 441.595 shall nevertheless remain in full force and effect. [1973 c.153 §15]