

RESOLUTION 2020-2

**NEAH KAH NIE WATER DISTRICT
9155 Nehalem Road ♦ Nehalem, Oregon 97131
(503) 368-7309**

RESOLUTION 2020-2 – RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE NEAH KAH NIE WATER DISTRICT AUTHORIZING THE EXECUTION AND DELIVERY OF A FINANCING AGREEMENT, AND THE RELATED NEGOTIATED SALE AND DELIVERY OF FULL FAITH AND CREDIT OBLIGATIONS, SERIES 2020, IN ONE OR MORE SERIES, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,100,000 TO FINANCE THE PURCHASE OF PROPERTY TO PRESERVE THE DISTRICT’S WATERSHED AND CERTAIN RELATED CAPITAL COSTS; DESIGNATING AUTHORIZED REPRESENTATIVES AND DELEGATING RESPONSIBILITIES AND RELATED MATTERS.

WHEREAS, the Board of Commissioners of the Neah Kah Nie Water District, a legally constituted domestic water supply district organized and existing under the laws of the State of Oregon, including Oregon Revised Statutes (“ORS”) Chapter 264 (“the District”), is authorized pursuant to ORS 271.390 and the laws of the State of Oregon to enter into financing agreements, lease-purchase agreements and other contracts to acquire real or personal property, or both, required for water supply purposes that the Board of Commissioners (the “Board”) of the District determines is needed and to provide for a tax on the assessed value of all taxable property within the District under such financing agreements, lease-purchase agreements or other contracts of purchase; and

WHEREAS, the Board has determined it is in the best interest of the District to finance the costs associated with the purchase of property to preserve the District’s watershed and certain related capital costs including but not limited to all fees and costs related to the condemnation action and financing thereof (collectively the “Project”);

WHEREAS, the Board has determined that it is in the best interests of the District to authorize and direct its Chair, General Manager, or their designee (each, an “Authorized Representative”), to act on behalf of the District in connection with the Project, including the selection and designation of the financing parties as described in Section 2 hereof; and

WHEREAS, pursuant to ORS 271.390, the Board has determined to finance the Project and to pay a portion of the costs of issuance of the District’s Full Faith and Credit Obligations, Series 2020 (the “Series 2020 Obligations”), and certain other permitted costs, by entering into a financing agreement (the “Financing Agreement”) between the District and a purchaser of the Series 2020 Obligations (the “Purchaser”) to be selected by the Authorized Representative; and

WHEREAS, the Board has determined that it is in the best interest of the District to authorize the Authorized Representative to execute and deliver those documents that are necessary and appropriate in connection with the Project, including but not limited to the

Financing Agreement; that provides the terms for the execution, delivery and sale of certificates of participation in the Financing Agreement; and

WHEREAS, the Board adopts this Resolution to provide the terms under which the District may enter into any necessary and appropriate financing documents, including but not limited to the Financing Agreement, to provide the terms of execution, delivery and sale of the Series 2020 Obligations, in one or more series, evidencing and representing the payment obligations of the District under the Financing Agreement and to authorize the Authorized Representative of the District to take action on the District's behalf.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Neah Kah Nie Water District, that:

Section 1. Authorization of Full Faith and Credit Obligations and Related Agreements. The District hereby authorizes the execution and delivery of such necessary financing documents, including but not limited to, the Financing Agreement and any related documents, and the execution and delivery of the Series 2020 Obligations, in one or more series, in an aggregate principal amount not to exceed One Million One Hundred Thousand Dollars (\$1,100,000) for the Series 2020 Obligations. The proceeds of the Series 2020 Obligations received by the District pursuant to the terms of the Financing Agreement shall be used to pay all or a portion of the costs of the Project. The initial true interest cost of the Series 2020 Obligations shall not exceed 2.03%.

The remaining terms of the Series 2020 Obligations, the Financing Agreement and the various other documents relating to the execution and delivery of the Series 2020 Obligations shall be established as provided in Section 7 hereof.

The District hereby authorizes the negotiated sale of the Series 2020 Obligations to the Purchaser on terms to be established as provided in Section 7 hereof.

Section 2. Authorized Representative. The District authorizes and directs the Authorized Representative to act on behalf of the District to select and designate such financing parties as are necessary and appropriate in connection with the execution, sale and delivery of the Series 2020 Obligations, including without limitation, the Purchaser, and to execute and deliver the Financing Agreement and other documents related to the execution and delivery of the Series 2020 Obligations and to determine the remaining terms of the Series 2020 Obligations to be established as provided in Section 7 hereof.

Section 3. Security. The financing payments (the "Financing Payments") under the Financing Agreement shall be payable from the District's general non-restricted revenues and other funds that are lawfully available for that purpose, including, revenues from an ad valorem tax authorized to be levied under the District's permanent rate limit under sections 11 and 11b, Article XI of the Oregon Constitution, and revenues derived from other taxes, if any, levied by the District in accordance with and subject to limitations and restrictions imposed under applicable law or contract, that are not dedicated, restricted or obligated by law or contract to an inconsistent expenditure or use. The District pledges its full faith and credit and taxing powers to the repayment of the Financing Payments as contemplated by ORS 271.390. The registered

owner or owners of the Series 2020 Obligations will not have a lien or security interest on the Project or any property financed with the proceeds of the Financing Agreement.

Section 4. Form of Obligations. The Series 2020 Obligations shall be prepared by Orrick, Herrington & Sutcliffe LLP as Special Counsel (“Special Counsel”) in substantially the form approved by the Authorized Representative. The Series 2020 Obligations may be printed or typewritten.

Section 5. Prepayment. Amounts payable by the District under the Financing Agreement and amounts payable under the Series 2020 Obligations may be prepaid, in whole or in part, anytime, at par plus accrued interest, with thirty (30) days written notice to the Purchaser.

Section 6. Tax-Exempt Status and Covenant as to Arbitrage. The District covenants to use the proceeds of the Financing Agreement to comply with the provisions of the Code so that interest components paid pursuant to any of the Series 2020 Obligations designated as tax-exempt pursuant to Section 7 hereof will not be includable in gross income of the owners of such Series 2020 Obligations for federal income tax purposes. The District specifically covenants:

- (a) To comply with “arbitrage” provisions of Section 148 of the Code, and to pay any required rebates and penalties;
- (b) To operate the Project so that any Series 2020 Obligations designated as tax-exempt are not “private activity bonds” under Section 141 of the Code; and
- (c) To comply with all reporting requirements.

The Authorized Representative may enter into covenants on behalf of the District to protect the tax-exempt status of the Financing Agreement and the Series 2020 Obligations.

Section 7. Delegation for Establishment of Terms and Sale of the Obligations. Each Authorized Representative is hereby authorized and directed, on behalf of the District without further approval of the District to:

- (a) establish the principal and interest payment dates, principal amounts, optional and mandatory prepayment provisions, if any, interest amounts, premium and/or discount, if any, denominations and all other terms for the Financing Agreement and the Series 2020 Obligations;
- (b) make any covenants necessary or desirable to obtain good financing terms on the Series 2020 Obligations with respect to the pledge of the District’s full faith and credit to secure the Series 2020 Obligations;
- (c) negotiate the terms under which the Series 2020 Obligations shall be sold and execute and deliver the Financing Agreement if determined by the Authorized Representative to be necessary and appropriate in connection with the Series 2020 Obligations;

(d) execute and deliver any interest rate cap with respect to the Series 2020 Obligations if determined by the Authorized Representative to be in the best interest of the District;

(e) designate the interest on one or more series of the Series 2020 Obligations to be excluded from gross income for federal income tax purposes;

(f) designate all or any portion of the Series 2020 Obligations as “qualified tax-exempt obligations” under Section 265(b) of the Code, if determined by the Authorized Representative to be in the best interest of the District and to the extent permitted under the Code;

(g) approve the form of the Series 2020 Obligations;

(h) approve, execute and deliver closing documents and certificates relating to the execution and delivery of the Financing Agreement and the Series 2020 Obligations;

(i) enter into covenants regarding the use of the proceeds of the Series 2020 Obligations received by the District pursuant to the Financing Agreement and the use of the Project to maintain the tax-exempt status of any series of Series 2020 Obligations designated as tax-exempt; and

(j) execute and deliver a certificate specifying the action taken pursuant to this Section 7, and any other certificates, documents or agreements that an Authorized Representative determines are desirable to execute and deliver the Financing Agreement and to sell and deliver the Series 2020 Obligations in accordance with this Resolution.

Section 8. Defeasance. The District may defease its obligations under the Financing Agreement by setting aside, with a duly appointed escrow agent, in a special escrow account irrevocably pledged to the payment of the principal and interest components of the each Financing Agreement or the Financing Agreement to be defeased, cash or direct obligations of the United States of America, including obligations of any federal agencies to the extent they are unconditionally guaranteed by the United States of America, in an amount which, in the opinion of a nationally recognized expert in the field of mathematical calculations relating to tax-exempt obligations, is sufficient without reinvestment to pay all principal components and interest components of the defeased Financing Agreement until the principal payment date or any earlier prepayment date. The obligations of the District under the Financing Agreement that have been defeased pursuant to this Section shall be deemed paid and no longer outstanding, and shall cease to be entitled to any lien, benefit or security under this Resolution or the the Financing Agreement except the right to receive payment from such special escrow account.

Section 9. Appointment of Special Counsel and Municipal Advisor. The District hereby appoints Orrick, Herrington & Sutcliffe LLP of Portland, Oregon, as special counsel to the District with respect to the Financing Agreement and the Series 2020 Obligations, and SDAO Advisory Services LLC as Municipal Advisor to the District with respect to the Financing Agreement and the Series 2020 Obligations.

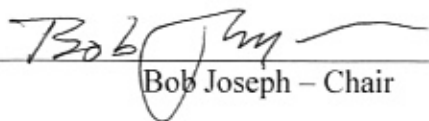
Section 10. Resolution to Constitute Contract. In consideration of the purchase and acceptance of any or all of the Series 2020 Obligations by those who shall own the same from time to time (the "Obligation Owners"), the provisions of this Resolution shall be part of the contract of the District with the Obligation Owners and shall be deemed to be and shall constitute a contract between the District and the Obligation Owners pursuant to ORS 287A.360. The covenants, pledges, representations and warranties contained in this Resolution, or in the closing documents executed in connection with the Series 2020 Obligations, including without limitation the District's covenants and pledges contained in Section 3 hereof, and the other covenants and agreements herein set forth to be performed by or on behalf of the District shall be contracts for the equal benefit, protection and security of the Obligation Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Series 2020 Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 11. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption by the District.

DATED: September 29, 2020.

Vote: YES NO

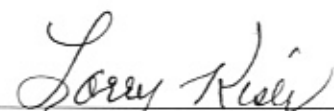
BOARD OF COMMISSIONERS SIGNATURES



Bob Joseph - Chair



Tom Mock - Secretary



Larry Kiser



Tom Ayres



David Boone