

RESOLUTION NO. 14-056

RESOLUTION AUTHORIZING THE AMENDMENT OF SPECIAL COUNSEL SERVICES AGREEMENT AND APPOINTING PLACEMENT AGENT IN CONNECTION WITH THE REFUNDING OF THE OUTSTANDING 2004 CERTIFICATES OF PARTICIPATION

FINDINGS

1. The City have heretofore issued 2004 Golf Course Certificates of Participation in the original amount of \$3,960,000, which are presently outstanding in the approximate aggregate principal amount of \$3,220,000 (the "Prior Obligations"), the proceeds of which were used to finance certain additions, betterments, extensions and improvements to the City's Golf Course (the "Golf Course").
2. The City Council, on February 6, 2013, expressed its desire to refund the Prior Obligations (the "Refunding"), and retained The Weist Law Firm as bond counsel (the "Bond Counsel") pursuant to a fee agreement, dated February 6, 2013 (the "Agreement"), to take legal action and to prepare and submit to the appropriate parties all proceedings, agreements and other documents as shall be necessary and customary in connection with the refunding of the Prior Obligations.
3. Mid-way through the Refunding process, the City determined that it was in the best interest of the City to lease the Golf Course to a private company specializing in golf course management and operations (the "Management Lease").
4. The Management Lease unavoidably requires the City to take all appropriate action necessary to convert the tax status of the Prior Obligations from tax-exempt to taxable.
5. City staff has worked with the City Attorney and Bond Counsel to develop a legal financing structure that accomplishes the Refunding on taxable basis, while still providing savings to the City, and given the time constraints and the taxable status of the Refunding transaction Bond Counsel was directed to simultaneously prepare for both a private placement and a public offering in order to preserve ultimate flexible to choose either option, which now requires that the Agreement be modified in accordance with the Amendment to Agreement for Special Counsel Service attached hereto (the "Amendment").
6. As prerequisite to preparing for a potential private placement, the Council desires to appoint Southwest Securities Inc. as placement agent (the "Placement Agent") in connection with the Refunding of the Prior Obligations.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

1. The foregoing Findings are adopted as findings of the City Council as though set forth fully herein.
2. The Mayor, Mayor Pro tempore, City Manager, Budget and Finance Manager, City Clerk and any other person authorized by the Council to act on behalf of the City shall each be an "Authorized Representative" of the City for the purposes of structuring and providing for the Refunding of the Prior Obligations, and are hereby authorized, jointly and severally, for and in the name of and on behalf of the City, to execute and deliver any and all documents and certificates that may be required to be executed in connection with the Refunding, and to do any and all things and take any and all actions

which may be necessary or advisable, in their discretion, to effectuate the actions which the Council has approved in this Resolution.

3. The Council hereby authorizes and approves the Amendment in substantially the form on file with the City Clerk and consents to such revisions, amendments and completions as shall be approved by the City. The City Manager is hereby authorized and directed to execute, and the City Clerk is hereby authorized and directed to attest to, the final form of the Amendment for and in the name and on behalf of the City and the execution thereof shall be conclusive evidence of the Council's approval of any such additions and changes.
4. The Council hereby appoints Southwest Securities as Placement Agent, in connection with the Refunding proceedings described in this Resolution. An Authorized Representative is authorized and directed to execute an agreement with Placement Agent in the form on file with the City Clerk. As provided in such agreement compensation payable to Placement Agent is entirely contingent upon the successful completion of the Refunding proceedings.
5. The City Clerk shall certify to the adoption of this resolution. Notwithstanding the foregoing, such certification and any of the other duties and responsibilities assigned to the City Clerk pursuant to this resolution may be performed by an Assistant City Clerk with the same force and effect as if performed by the City Clerk hereunder.
6. The Council hereby finds and determines that it has taken all of the foregoing actions, and made all of the foregoing findings, in full compliance with the law, and that all prior proceedings taken with respect to the Refunding were duly considered, and are hereby considered valid and in conformity with the requirements of law.
7. This Resolution shall take effect from and after the date of its passage and adoption.

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PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 20th day of August, 2014, by the following vote:

AYES: Mayor Kampe, Councilmembers Cohen, Cuneo, Fischer, Huitt, Lucius, Miller

NOES: None

ABSENT: None

APPROVED:

BILL KAMPE, Mayor

ATTEST:

ANN CAMEL, Interim City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney