

RESOLUTION NO. 58

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY AND AGENCY, AND COMMITTING THE AGENCY TO PAY AMOUNTS DUE IN CONNECTION WITH CITY BORROWINGS TO FINANCE URBAN RENEWAL PROJECTS AND RELATED MATTERS.

THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE FINDS AS FOLLOWS:

1. That the Urban Renewal Agency of the City of Troutdale ("Agency"), the duly formed body to implement the urban renewal in Troutdale was established by the adoption of City of Troutdale ("City") Ordinance. No. 771 on January 27, 2006.
2. That in order to protect the public health, safety, and welfare the City adopted the Troutdale Riverfront Renewal Plan ("Plan") on February 14, 2006, by Ordinance No. 773 to provide urban renewal authority to eliminate blight and foster development and redevelopment within the Troutdale Riverfront Renewal Plan Area.
3. That the Board of Directors ("Board") of the Agency adopted Resolution No. 39 on September 19, 2017 which finds and declares that acquiring the City's former sewer treatment plant site, an approximately 12-acre parcel, and the adjacent approximately 8-acre parcel owned by Eastwinds Development, LLC, (Eastwinds), as part of a larger consolidated project site, will serve a valuable, desirable and necessary public purpose, and is for an authorized public purpose toward the fulfillment of the adopted Troutdale Riverfront Renewal Plan.
4. That in 2017 the Agency did not have sufficient resources to accomplish the Plan, and a need exists to finance the real property purchase and to perform the needed redevelopment actions.
5. That Oregon Revised Statutes ("ORS") 457.320 authorizes the City to exercise any of its powers otherwise provided by law to assist in the planning or the carrying out of an urban renewal plan and ORS 190.010 authorizes the Agency and City to enter into intergovernmental agreements ("IGA").
6. That the Agency Board adopted Resolution No. 41 on October 17, 2017 authorizing an IGA with the City of Troutdale (City") borrowing \$5,000,000 of funds from the City to acquire real property and finance Urban Renewal projects.

7. That at various locations across the 20 acre project site past environmental contamination of varying degrees has occurred, and to protect the Agency from potential liability for pre-acquisition releases of hazardous substances at or from the property, the Agency entered into a Prospective Purchaser Agreement (“PPA”) with the Oregon Department of Environmental Quality (“DEQ”).
8. That the Agency, following a public procurement competitive bid process, awarded a demolition and site clean-up contract which has encountered numerous delays and difficulties resulting in significant cost increases.
9. That the Agency does not have sufficient financial resources to complete the court mandated requirements of the Consent Judgement PPA and needs additional financing to complete the necessary remediation actions.
10. That the City adopted Resolution No. 2397 on October 10, 2017 which finds and declares it serves the public interest, and it is necessary and desirable for the City to assist the Agency by the financing of the real property purchase and redevelopment actions in order to implement the Plan redevelopment projects, benefiting the public health, safety and welfare of the community.
11. That the Agency and City have determined that financing the real property redevelopment actions through a borrowing of the City and obligating the Agency to repay that borrowing through an IGA is financially feasible and in the parties’ best interest.
12. That Oregon Business Development Department, known as Business Oregon, through their Brownfields Redevelopment Fund, has approved a loan to the City for remedial actions of hazardous substances at the site to facilitate productive reuse of contaminated property toward the fulfillment of the court mandated requirements of the Consent Judgement PPA.
13. That it is necessary and desirable for the Agency to obtain an additional \$1,500,000 of financing from the City through the loan from the Business Oregon Brownfields Redevelopment Fund, and that it would be in the Agency’s best interest.
14. That the Agency and City intend for the financing to be repaid from proceeds of the subsequent sale for private development of all or a portion of the Agency real property.
15. That Agency will commit to pay the amounts due from the City under the financing agreement, and will enter into an IGA with the City to pay those amounts, but solely from the proceeds of the re-sale of the purchased real property, and unspent proceeds of the IGA borrowing.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE:

Section 1. Determination of Need. The Agency Board in accordance with the findings set forth above, in order to facilitate redevelopment in the Plan Area, hereby determines that the real property environmental remediation and redevelopment actions are needed.

Section 2. Assistance to Agency. The Agency hereby declares it serves the public interest, and it is necessary and desirable for the City to assist the Agency to finance the real property environmental remediation and redevelopment actions in support of the Troutdale Riverfront Renewal Plan.

Section 3. Borrowing Authorization. The Agency hereby approves the intergovernmental agreement with the City to borrow \$1,500,000 to finance the real property environmental remediation and redevelopment actions in substantially the form attached to this resolution as Attachment A, but with any changes the Agency Official may approve.

Section 4. Agency Repayment. The Agency agrees to pay all amounts due to the City, but solely from the proceeds of the sale of the purchased real property, and unspent proceeds of the IGA borrowing.

Section 5. Comply with Lending of Credit Prohibition. The Agency covenants to maintain the City's compliance with Article XI, Section 9 of the Oregon Constitution.

Section 6. Designation of Agency Official. The Agency Executive Director and City Manager Ray Young, and Finance Director Erich Mueller, (each an "Agency Official") are hereby authorized empowered and directed to act on behalf of the Agency, and without further action by the Agency Board, to sign the IGA on behalf of the Agency, and any and all other required and necessary documents to implement the intent of the IGA.

Section 7. Further, as applicable, to comply with State statutes, administrative rules or local ordinances, and to act in the best interest of the Agency, and without further action by the Agency, the Agency Officials are hereby authorized, directed, and responsible for fulfilling the ministerial, intergovernmental, technical, compliance, procedural or promotional functions as required for the effective administration and implementation of the IGA, and to take any other action as may be advisable, convenient, necessary, or appropriate, and the execution thereof by any such Agency Official shall be conclusive as to such determination.

Section 8. The Finance Director is authorized to disburse funds, subject to annual appropriations, as necessary to fulfill the intent of this resolution and the IGA, and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 9. This Resolution shall take effect immediately upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0



Casey Ryan, Chair
Date: June 17, 2020



Sarah Skroch, City Recorder
Adopted: June 16, 2020

**FORM OF
INTERGOVERNMENTAL AGREEMENT RELATED TO THE LENDING OF FUNDS
FROM THE CITY OF TROUTDALE
TO THE URBAN RENEWAL AGENCY OF THE CITY OF TROUTDALE**

THIS INTERGOVERNMENTAL AGREEMENT is entered into between the City of Troutdale, an Oregon municipal corporation (the "City"), and the Urban Renewal Agency of the City of Troutdale, an Oregon urban renewal agency formed under ORS Chapter 457 (the "Agency").

RECITALS:

Whereas, the Agency is the duly formed body to implement urban renewal in Troutdale formed by the adoption of City Ordinance. No. 771 on January 27, 2006 and duly activated by the City, exercising its powers to engage in urban renewal activity as authorized by Oregon Revised Statutes ("ORS") Chapter 457;

Whereas, the City adopted the Troutdale Riverfront Renewal Plan, which has subsequently been amended and may in the future be amended in accordance with its terms ("Plan") on February 14, 2006, by Ordinance No. 773 to provide tax increment funding and urban renewal authority to eliminate blight and foster development and redevelopment within the Troutdale Riverfront Renewal Area ("Plan Area") and assigned the Agency to implement the Plan vision, goals and objectives which include property acquisition and supporting redevelopment of the Plan Area, in order to protect the public health, safety, and welfare;

Whereas, the Board of the Agency and the City Council have determined that a need exists to finance certain projects located within the Plan Area and described in the Plan (collectively, the "Project");

Whereas, the Agency does not have sufficient revenues to finance the Project;

Whereas, the City and the Agency have determined that financing the Project through a borrowing of the City and obligating the Agency to repay that borrowing through this intergovernmental agreement ("IGA") is financially feasible and in the parties' best interest;

Whereas, the City executed a Financing Agreement (the "Financing Agreement") in the amount of \$_____ dated _____, 2020 to finance the Project and pay costs of the financing;

Whereas, ORS 190.010 authorizes the City and the Agency to enter, and the City and the Agency desire to enter into this IGA.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1: Financing Payments.

1.1 The Financing Payments.

The Agency hereby agrees to pay to the City the amounts that the City is obligated to pay under Financing Agreement in a maximum principal amount of \$[principal amount of City borrowing]. The amounts and dates of the payments due under the Financing Agreement are shown in Exhibit A.

1.2 Security for the Obligation of the Agency to Pay the Financing Payments.

The Agency is obligated to make the payments due from the City under the Financing Agreement. However, the Agency is only obligated to make those payments from the proceeds of the sale of the Project financed with the proceeds of the Financing Agreement, and unspent proceeds of the Financing Agreement.

Section 2: Covenants to Allow City to Comply with Article XI, Section 9 of the Oregon Constitution.

This section applies unless the Agency and City otherwise receive an opinion from bond counsel.

The Agency and City hereby covenant that so long as the Financing Agreement or this Intergovernmental Agreement remains outstanding:

- (1) The Project can only be sold to a private party if the sale meets the following conditions:
 - the sale is for cash;
 - at not less than fair reuse value as defined in ORS 457.230; and
 - the sale is in an amount sufficient, considering other legally available sources of revenues, to pay off all amounts due from the City under the Financing Agreement allocable to the portion of the Project being sold.
- (2) If a sale is permitted under (1), above and all or a portion of the Project is sold to a private party, proceeds from the sale, and, if necessary, other legally available sources of revenues, need to be applied immediately to pay off all amounts due from the City under the Financing Agreement allocable to the portion of the Project being sold.
- (3) Neither the Agency nor City will take any action related to the Project designed to benefit a particular private party. This includes making improvements on the Project to benefit a particular developer or development. This covenant does not

limit the Agency's ability to make changes to the Project to prepare the Project for development so long as those changes are general in nature, designed to facilitate development on the site and not designed to benefit or accommodate a particular project or developer.

Section 3: Prepayment.

If the City exercises its option to prepay the Financing Payments in whole or in part, unless the Agency consents in advance and in writing, the Agency shall not be obligated to prepay the amounts due from it under this Intergovernmental Agreement.

Section 4: Representations of the Agency.

The Agency will only spend the proceeds of the Financing Agreement on the Project so long as the Project is described in the Plan, located in the Plan Area, and owned by the City or the Agency.

Section 5: Indemnification.

Subject to the limitations in the Oregon Constitution and the Oregon Tort Claims Act, the parties agree to defend, indemnify, and hold each other, their officers, agents, and employees harmless from all claims, suits, or actions of whatsoever kind, which arise out of or result from the transfer of funds.

Section 6: Modification.

This agreement may not be altered, modified, supplemented or amended in any manner whatsoever except by the mutual agreement of the parties in writing. Any such alteration, modification, supplementation or amendment, if made, shall be effective only in the specific instance and for the specific purpose given, and shall be valid and binding only if signed by the parties.

Section 7: Waiver.

No provision of this agreement may be waived except in writing by the party waiving compliance. No waiver of any provision of this agreement shall constitute waiver of any other provision, whether similar or not, nor shall any one waiver constitute a continuing waiver. Failure to enforce any provision of this agreement shall not operate as a waiver of such provision or of any other provision.

Section 8: Severability.

The parties agree that if any term or provision of the agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the agreement did not contain the particular term or provision held to be invalid.

IN WITNESS WHEREOF, the execution of which having been first duly authorized according to law.

**URBAN RENEWAL AGENCY
OF THE CITY OF TROUTDALE**

Ray Young
Executive Director

Date

CITY OF TROUTDALE

Erich Mueller
Finance Director

Date

EXHIBIT A

Payments on the Financing Agreement

Interest at the rate of ___%, calculated on a [30/360] basis, is payable _____.
Principal and interest payment requirements are outlined in the following table.

<u>Date</u>	<u>Principal</u>	<u>Interest</u>	<u>Total Payment</u>
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