



## RESOLUTION 2009-083

### **AUTHORIZING A LOAN FROM THE SAFE DRINKING WATER REVOLVING LOAN FUND BY ENTERING INTO A LOAN CONTRACT WITH THE OREGON BUSINESS DEVELOPMENT DEPARTMENT**

The City Council (the "Governing Body") of the City of Sherwood (the "Borrower") finds:

A. The Borrower is a community or nonprofit non-community water system as defined in Oregon Administrative Rule 123-049-0010.

B. The Safe Drinking Water Act Amendments of 1996, Pub.L. 104-182, as amended (the "Act"), authorize any community or nonprofit non-community water system to file an application with the Oregon Business Development Department ("the Department") to obtain financial assistance from the Safe Drinking Water Revolving Loan Fund.

C. The Borrower has filed an application with the Department to obtain financial assistance for a "drinking water project" within the meaning of the Act.

D. The Department has approved the Borrower's application for financial assistance from the Safe Drinking Water Revolving Loan Fund pursuant to the Act.

E. The Borrower is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department in substantially the form attached hereto as Exhibits "A" and "B."

F. The project described in Exhibit "A" to the Loan Agreement (the "Project") is a "safe drinking water project" within the meaning of the Act which is needed by and is in the public interest of the Borrower.

G. Notice relating to the Borrower's consideration of the adoption of this Resolution 2009-083 was published in full accordance with the City of Sherwood's charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the City of Sherwood, the Governing Body of the Borrower as follows:

1. Loan Authorized. The Governing Body authorizes the City Manager to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the Department on the

condition that the principal amount of the loan from the Department to the Borrower is not in excess of \$6,000,000 and the interest rate on such loan is not in excess of 3.83 percent. The proceeds of the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

2. Security. Amounts payable by the Borrower shall be payable from the sources described in Section 2.05 of the Loan Agreement which include:

- a. any sources of funds that are legally available to the Borrower,
- b. the revenues, if any, of the Project, including special assessment revenues, if any, and
- c. the Borrower's general fund including the general revenues of the Borrower or other funds which may be available. The obligation of the Borrower to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the Borrower that is not subject to annual appropriation.

3. Additional Documents. The City Manager is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.

4. Tax-Exempt Status. The Borrower covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Borrower pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The City Manager of the Borrower may enter into covenants on behalf of the Borrower to protect the tax-exempt status of the interest paid by the Borrower pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

5. Effective Date. Resolution 2009-083 shall be in force and effect from and after passage by the Governing Body.

**Duly passed by the Sherwood City Council this 3<sup>rd</sup> day of November 2009.**

  
Keith S. Mays, Mayor

ATTEST:

  
Sylvia Murphy, City Recorder