



RESOLUTION 2012-039

A RESOLUTION APPROVING ONE OR MORE BORROWINGS TO REFINANCE OUTSTANDING CITY BORROWINGS AND THE EXECUTION OF AN INTERGOVERNMENTAL AGREEMENT WITH THE URBAN RENEWAL AGENCY OF THE CITY OF SHERWOOD COMMITTING THE AGENCY TO PROVIDE TAX INCREMENT REVENUES TO PAY DEBT SERVICE ON ANY PORTION OF THE BORROWINGS THAT REFINANCES URBAN RENEWAL PROJECTS

WHEREAS, the City of Sherwood (the “City”) is authorized by Oregon Revised Statutes Section 271.390 to enter into financing agreements to finance or refinance real or personal property which the City Council determines is needed; and,

WHEREAS, the City entered into a \$1,970,000 loan agreement in December of 2001 to finance the recreation center and parks improvements (the “2001 Loan Agreement”), a \$5,845,708 Special Public Works Community Facility Loan Agreement in December of 2003 to finance the combined library/city hall complex and associated infrastructure (the “2003 Loan Agreement”), and a \$1,800,000 financing agreement and note in July of 2006 to finance a railroad crossing and related street improvements (the “2006 Loan Agreement”); and,

WHEREAS, the 2001 Loan Agreement, the 2003 Loan Agreement and the 2006 Loan Agreement (collectively, the “Outstanding Loan Agreements”) are secured by the full faith and credit of the City; and,

WHEREAS, current interest rates are lower than the interest rates that the City is obligated to pay on the Outstanding Loan Agreements; and

WHEREAS, the 2003 Loan Agreement and the 2006 Loan Agreement are payable primarily from the tax increment revenues of the Sherwood Urban Renewal Area that the Urban Renewal Agency of the City of Sherwood has agreed to pay to the City; now, therefore, it is hereby

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

Section 1. Determination of Need.

The following real and personal property is needed and is eligible to be refinanced under ORS 271.390: the recreation center and parks improvements that were financed with the 2001 Loan Agreement, the combined library/city hall complex and associated infrastructure that were financed with the 2003 Loan Agreement and the railroad crossing and related street improvements that were financed with the 2006 Loan Agreement.

Section 2. Delegation.

The City Manager, City Finance Director or person designated by the City Council to act on behalf of the City under this resolution (each of whom is referred to as a “City Official” in this resolution) is hereby authorized, on behalf of the City and without further action by the City Council, to:

- (1) Negotiate, execute and deliver one or more financing agreements or loan agreements (the “New Loan Agreements”) in an aggregate principal amount that is sufficient to refinance all or any portion of the Outstanding Loan Agreements and pay estimated costs related to the refinancing. However, the City Official shall not execute or deliver any New Loan Agreement unless that New Loan Agreement produces net debt service savings. Subject to the limitations of this Resolution, the New Loan Agreements may be in such form and contain such terms as the City Official may approve.
- (2) Negotiate, execute and deliver one or more escrow agreements or similar documents (the “Escrow Agreements”) that provide for the issuance of one or more series of “full faith and credit obligations” (the “Obligations”) that represent ownership interests in the principal and interest payments due from the City under the New Loan Agreements. Subject to the limitations of this Resolution, the Escrow Agreements and each series of Obligations may be in such form and contain such terms as the City Official may approve.
- (3) Determine whether the interest payable on each New Loan Agreement will be includable in gross income or excludable from gross income under the Internal Revenue Code of 1986, as amended (the “Code”).
- (4) Covenant for the benefit of the owners of tax-exempt Obligations to comply with all provisions of the Code which are required for the interest component of loan payments payable under the related New Loan Agreements to be excluded from gross income for federal income tax purposes.
- (5) Deem final and authorize the distribution of a preliminary official statement for each series of Obligations, authorize the preparation and distribution of a final official statement or other disclosure document for each series of Obligations.
- (6) Undertake to provide continuing disclosure for each series of Obligations in accordance with Rule 15c2-12 of the United States Securities and Exchange Commission.
- (7) Apply for ratings for each series of Obligations, determine whether to purchase municipal bond insurance or obtain other forms of credit enhancements for each series of Obligations, enter into agreements with the providers of credit enhancement, and execute and deliver related documents.
- (8) Enter into additional covenants for the benefit of the purchasers of the Obligations which the City Official determines are desirable to obtain more favorable terms for the New Loan Agreements.

- (9) Engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing.
- (10) Determine the final principal amount of each New Loan Agreement, the interest rate or rates which each New Loan Agreement shall bear, the City's prepayment rights and other terms of each New Loan Agreement and each series of Obligations.
- (11) Solicit competitive bids for the purchase of the Obligations and award the sale to the bidders offering the most favorable terms to the City, select one or more underwriters to purchase the Obligations and negotiate the terms of the sales of those Obligations with those underwriters, or place any New Loan Agreement directly with a commercial bank or other lender.
- (12) Execute and deliver any other certificates or documents and take any other actions which the City Official determines are desirable to carry out this Resolution.

Section 3. Payments from Tax Increment Revenues.

The City Official is authorized to enter into one or more intergovernmental agreements with the City's urban renewal agency, under which the City's urban renewal agency agrees to provide tax increment revenues in sufficient amounts to pay all amounts due from the City under any portions of the New Loan Agreements that refinance the 2003 Loan Agreement and the 2006 Loan Agreement. The intergovernmental agreements shall be in substantially the form attached to this resolution as Exhibit A, but with any changes the City Official may approve.

Section 4. Security.

The New Loan Agreements may constitute unconditional obligations of the City, which are payable from all legally available funds of the City. The City Official may pledge the City's full faith and credit and taxing power within the limitations of Sections 11 and 11b of Article XI of the Oregon Constitution. In addition, the City Official may pledge or assign any amounts that the City receives under the intergovernmental agreements described in Section 3 of this Resolution to pay the amounts due from the City under the New Loan Agreements.

Section 5. Hearing.

The 2001 Loan Agreement is a "private activity bond" and a "qualified 501(c)(3) bond" under the Code, and the Code may require that a hearing be held and that an elected official of the City approve the issuance of tax-exempt refinancing obligations such as the New Loan Agreements. If the Code requires such a hearing the City Official is hereby authorized to publish notice and hold that hearing, and report the results to the Mayor or the City Council. The Mayor is hereby authorized to approve the issuance of any New Loan Agreements that refinance the 2001 Loan Agreement on behalf of the City and the City Council.

Section 6. Effective Date.

This resolution is effective immediately upon adoption.

DATED this 7th day of August, 2012.



Keith S. Mays, Mayor

Attest:



Sylvia Murphy, CMC, City Recorder

**Exhibit A to Resolution 2012-039
Form of Intergovernmental Agreement**

**Intergovernmental Agreement
to Make Loan Payments**

by and between the

Urban Renewal Agency of the City of Sherwood, Oregon

and the

City of Sherwood, Oregon

Dated as of ____, 2012

**Intergovernmental Agreement
to Make Loan Payments**

This Intergovernmental Agreement to Make Loan Payments is dated as of ____, 2012, and is entered into by and between the Urban Renewal Agency of the City of Sherwood, Oregon, (the “Agency”) and the City of Sherwood, Oregon (the “City”). The parties hereby agree as follows:

Section 1. Definitions and Recitals.

(1) Definitions.

Unless the context clearly requires otherwise, capitalized terms used in this Intergovernmental Agreement which are defined in this Section 1(1) shall have the following meanings: “Loan Agreement” means the Loan Agreement between the City and [name of entity] in the principal amount of \$[principal] related to the Project, which is dated as of ____, 2012.

“Loan Payments” means the principal and interest payments the City is required to make to the under the Loan Agreement.

“Parity Obligations” means [to be described when IGA is signed].

“Project” means collectively, [insert description when IGA is signed].

“Senior Lien Obligations” means [to be described when IGA is signed].

“Tax Increment Revenues” means all revenues which the Agency collects for the Sherwood Urban Renewal Area under the provisions of Article IX, Section 1c of the Oregon Constitution and ORS Chapter 457.

(2) Findings.

(A) The City has entered into the Loan Agreement to refinance costs of the Project.

(B) The Project is properly described as an urban renewal project in the Agency’s urban renewal plan.

(C) The Agency is authorized to spend Tax Increment Revenues to pay for the costs of the Project.

(D) The Project will assist the Agency in carrying out its urban renewal plan.

Section 2. The Loan Payments.

(1) The Loan Payments.

The Agency hereby agrees to pay to the City, not less than one business day prior to the dates on which the City is required to pay the Loan Payments, amounts that are equal to the Loan Payments in a maximum principal amount of \$[principal]. The amounts and dates of the Loan Payments are shown in Exhibit A.

(2) Security for the Obligation of the Agency to Pay the Loan Payments.

The Agency hereby pledges its Tax Increment Revenues to pay the amounts described in Section 2.1 of this Intergovernmental Agreement, and this Intergovernmental Agreement shall constitute an indebtedness of the Agency. The pledge of the Tax Increment Revenues shall be superior to all other pledges or commitments of Tax Increment Revenues that the Agency makes, unless the City agrees in writing to subordinate its claim against the Tax Increment Revenues. That pledge is subordinate to the pledge relating to the Senior Lien Obligations, and on parity with the pledge of the Agency related to the Parity Obligations.

Section 3. Tax Covenant

The Agency covenants to comply with the applicable provisions of the Internal Revenue Code of 1986, as amended, (the "Code") so that interest on the Loan Agreement is excludable from gross income under the Code. All covenants of the Agency relating to the excludability of interest that are contained in the closing documents for the Loan Agreement are hereby incorporated by reference.

Section 4. Miscellaneous

(1) Binding Effect.

This Intergovernmental Agreement shall inure to the benefit of and shall be binding upon the Agency and the City and their respective successors and assigns.

(2) Severability.

In the event any provisions of this Intergovernmental Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provisions hereof.

(3) Amendments.

This Intergovernmental Agreement may be amended only by a writing signed by both parties.

Exhibit A to Resolution –
Form of Intergovernmental Agreement

(4) Execution in Counterparts.

This Intergovernmental Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute the same instrument.

(5) Applicable Law.

This Intergovernmental Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any action regarding this Intergovernmental Agreement or the transactions contemplated hereby shall be brought in an appropriate court of the State of Oregon in Washington County, Oregon.

(6) Rules of Construction.

References to section numbers in documents which do not specify the document in which the section is located shall be construed as references to section numbers in this Intergovernmental Agreement.

(7) Headings.

The headings, titles and table of contents in this Intergovernmental Agreement are provided for convenience and shall not affect the meaning, construction or effect of this Intergovernmental Agreement.

IN WITNESS WHEREOF, the Agency and the City have executed this Intergovernmental Agreement as of the date indicated above.

**For the Urban Renewal Agency of the City of
Sherwood Oregon**

Authorized Official

For the City of Sherwood Oregon

City Official

EXHIBIT A

LOAN PAYMENT SCHEDULE

Interest, calculated on a 30/360 day basis, is payable semi-annually on _____ and _____, commencing _____, 2012.

<u>Date</u> (_____)	<u>Principal</u> <u>Payment (\$)</u>	<u>Interest Rate (%)</u>
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