

RESOLUTION 1169

A RESOLUTION AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT FOR THE LOANING OF MONEY FROM THE CITY OF CANBY TO THE URBAN RENEWAL AGENCY AND PLEDGING OF TAX INCREMENT REVENUES

WHEREAS, the Canby Urban Renewal Agency (the “Agency”) and the City of Canby, Clackamas County, Oregon (the “City”) are currently planning projects set forth in the Canby Urban Renewal Plan dated November 24, 1999, as amended June 23, 2009, including the acquisition, construction, equipping and furnishing of a new library (the “Library Project”); and

WHEREAS, the Agency is charged with acquiring certain real property necessary for the Library Project and has negotiated a Purchase and Sale Agreement for such acquisition with the Canby Utility Board (“Purchase and Sale Agreement”); and

WHEREAS, the Agency has approved the Purchase and Sale Agreement by separate resolution, and the closing of the purchase is subject to, among other contingencies, available funding; and

WHEREAS, the Agency has need for funds to be available in the amount of \$950,000 to close the purchase pursuant to the Purchase and Sale Agreement; and

WHEREAS, the City has sufficient uncommitted funds in the Sewer Combined Fund available to loan to the Agency on reasonable terms to allow such closing; and

WHEREAS, the Agency and the City wish to enter into an intergovernmental agreement to authorize the Agency borrowing,

NOW THEREFORE, IT IS HEREBY RESOLVED by the City of Canby as follows:

1. The City of Canby authorizes the Intergovernmental Agreement (“IGA”) with the Canby Urban Renewal Agency substantially in the form attached as hereto as Exhibit A.

This resolution will take effect on June 19, 2013.

FAILED

ADOPTED this 19th day of June 2013 by the City of Canby City Council.

Brian Hodson
Mayor

ATTEST:

FAILED 4-3 MAYOR VOTED TO BREAK TIE

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EXHIBIT A
Intergovernmental Agreement

INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is executed this ___ day of July 2013, by and between the CITY OF CANBY, OREGON, a municipal corporation of the State of Oregon (the “City”) and the CANBY URBAN RENEWAL AGENCY, OREGON, a public body created and activated under ORS Chapter 457 (the “Agency”).

RECITALS

- A. Pursuant to ORS 190.010, units of local government are authorized to enter into intergovernmental agreements with other units of local governments for the performance of any or all functions and activities that a party to the agreement, its officers or agencies, have the authority to perform.
- B. Each of the parties to this agreement is a “unit of local government” as defined in ORS 190.003. Each of the parties has the legal authority for the performance of any and all functions and activities set forth herein.
- C. The Agency, as the duly authorized and acting urban renewal agency of the City of Canby, Oregon is charged to undertake certain redevelopment activities in the redevelopment area pursuant to ORS Chapter 457 and the Plan.
- D. Pursuant to ORS 457.190, the Agency is authorized to borrow money and accept advances, loans, grants and any other form of financial assistance from a public body for the purposes of undertaking and carrying out urban renewal projects.
- E. Pursuant to ORS 457.320 the City is authorized to exercise any of its powers to assist in the planning or the carrying out of an urban renewal plan.
- F. The City and the Agency are currently planning projects set forth in the Plan, including the acquisition, construction, equipping and furnishing of a new library (the “Library Project”).
- G. The Agency is charged with acquiring certain real property necessary for the Library Project and has negotiated a Purchase and Sale Agreement for such acquisition with the Canby Utility Board.
- H. The Agency has approved the Purchase and Sale Agreement by separate resolution, and the closing of the purchase is subject to available funding.
- I. The Agency has need for funds to be available in the amount of \$950,000 to close the purchase pursuant to the Purchase and Sale Agreement, and subject to the satisfaction of all contingencies in the Purchase and Sale Agreement.

- J. The City has sufficient uncommitted funds available to loan to the Agency on reasonable terms to allow such closing.
- K. The Agency finds it desirable to authorize the borrowing of not more than \$950,000 to be used for acquisition of certain real property necessary for the Library Project and to pledge the Tax Increment Revenues as security for such borrowing (“City Loan”).
- L. The Agency and the City have determined that the Agency has the capacity to repay the City Loan according to this IGA.
- M. The City finds it desirable to make the City Loan on the terms and conditions described herein.

AGREEMENT

NOW, THEREFORE, pursuant to the provisions of ORS Chapters 457 and 190, and in consideration of the benefits to accrue to the City, the Agency, the community and the citizens from this Intergovernmental Agreement and in consideration of the covenants set forth therein, the City and Agency agree:

1. Definitions. For purposes of this IGA, the following capitalized terms shall have the following meanings unless the context clearly requires otherwise:

“Area” means the Canby Urban Renewal Area which is described in the Plan;

“Authorized Representatives” means the Mayor of the City of Canby, or his designee, for the City and the Agency Chair, or his designee, for the Agency;

“City Loan” is the debt incurred by the Agency pursuant to this IGA;

“Debt Service” means the principal and interest due on the City Loan in the then current fiscal year according to the Schedule;

“Event of Default” means the declaration by the City of an event of default as a result of a determination by the City that there has been: (i) a failure to pay principal or interest on when due under this IGA, which failure continues, and is not cured, for a period of more than 30 days after the City has made written demand on the Agency to cure such failure, provided that an Agency failure to pay due to insufficiency of Tax Increment Revenues is not a default; or (ii) a failure by the Agency to comply with any of its obligations, or to perform any of its duties, under this IGA, which failure continues, and is not cured, for a period of more than 30 days after the City has made written demand on the Agency to cure such failure; or (iii) a material misrepresentation by the Agency in this IGA;

“Fiscal Year” means the period from July 1 to June 30 in any year.

“Plan” means the Canby Urban Renewal Plan, which is dated November 24, 1999, as amended;

“Prior Debt” means any unpaid, outstanding indebtedness issued or incurred prior to the Effective Date;

“Project Fund” means any separate fund or account which is not part of the Tax Increment Fund, and which is used to hold the proceeds of the City Loan;

“Purchase and Sale Agreement” means that Purchase and Sale Agreement between the Agency and the Canby Utility Board authorized by the Agency on June 19, 2013 by Resolution URR 13-007.

“Resolution” means this resolution authorizing the IGA;

“Schedule” means the amortization schedule showing Agency Debt Service payments during the City Loan term, attached hereto as Exhibit A;

“Tax Increment Fund” means the fund which is established under ORS 457.440 to hold the Tax Increment Revenues; and

“Tax Increment Revenues” means all ad valorem tax revenues which are attributable to the increase in assessed value of property within that Area pursuant to Section 1c, Article IX of the Oregon Constitution and Oregon Revised Statutes, Chapter 457, and all earnings thereon while those Tax Increment Revenues are held in the Tax Increment Fund.

2. Promise to Pay; Incurring of Debt. The Agency, for value received, acknowledges itself indebted as of the Effective Date, and hereby promises to pay to the City, on the maturity date, the principal amount of \$950,000.00 with interest at the rate of 5% per annum, based on a 30 day month and 360 day year, and a maturity of not more than 10 years. Interest and principal shall be paid according to the Schedule attached to this IGA as Exhibit A. The Agency’s Tax Increment Revenues shall be available to pay the City Loan but the availability of such Tax Increment Revenues is subject to the lien of the Prior Debt. If Tax Increment Revenues are not available to pay the Debt Service, the unpaid balance, with interest will be capitalized at the end of the then current Fiscal Year and the City will provide the Agency a new Schedule revising the Debt Service for succeeding years, but not extending the term of the City Loan. This revision of the Schedule will not require an amendment to the IGA.
3. Security for City Loan. The City Loan shall not be a general obligation of the Agency. The principal of and the interest on the City Loan shall be payable solely from (a) the Tax Increment Revenues, including all amounts in the Tax Increment Fund, and (b) the proceeds of the City Loan. The Agency hereby pledges and grants a subordinate lien and security interest in, the Agency’s right, title and interest in the Tax Increment Revenues, including all amounts in the Tax Increment Fund to pay the City Loan. The Agency also hereby pledges and grants a subordinate lien and security interest in, the Agency’s right, title and interest in the Project Fund and the proceeds of the City Loan to pay the City Loan until such time as the Agency spends those proceeds.
4. City Loan Disbursal. The City Loan proceeds will be advanced to Agency on the or before the closing date specified in the Purchase and Sale Agreement. No funds will be advanced until all contingencies to closing have been satisfied or waived and the parties to the Purchase and Sale Agreement are prepared to close the sale and purchase except for available funds. Upon acceptance of the City

Loan proceeds, Agency agrees to proceed with due diligence to acquire the property in accordance with the Purchase and Sale Agreement.

5. Prepayment. Any prepayment of the City Loan shall not be subject to a prepayment fee.
6. The Tax Increment Fund. The Agency covenants to deposit all of the Tax Increment Revenues into the Tax Increment Fund, and, so long as the City Loan is outstanding, to expend the Tax Increment Revenues from the Area only for the following purposes, in the following order of priority:
 - a. To repay Prior Debt;
 - b. To repay the City Loan; and
 - c. For any other lawful purpose.
7. Additional Covenants.
 - a. The Agency covenants to cause the maximum amount of the Tax Increment Revenues to be collected each Fiscal Year.
 - b. The Agency shall immediately notify the City of any development which is likely to have a material, adverse effect on the financial condition of the Agency or the collection of Tax Increment Revenues while any amount remains outstanding under the City Loan.
 - c. The Agency may incur additional indebtedness secured by a lien on the Tax Increment Revenues the security for which is prior to or subordinate to this City Loan.
 - d. The City and Agency have each taken the actions necessary to authorize this IGA and no challenge or appeal to such actions is pending.
 - e. The Authorized Representatives are authorized to execute this IGA on behalf of their respective bodies.
 - f. This IGA may be modified upon written mutual agreement of the City and the Agency.
 - g. The Agency shall give provide the City with such additional information as the City may reasonably request while any amount remains outstanding under the City Loan.
8. Project- Fund; Use of Proceeds. The Project Fund shall be held by the Agency. Proceeds of the City Loan shall be deposited in the Project Fund, or into a third party escrow fund at the direction of the Agency Authorized Representative, and shall be used only to pay for costs of the purchase of the property described in the Purchase and Sale Agreement and only after the contingencies to such purchase and sale have been satisfied.

9. Delegation. The Authorized Representatives, and each of them, are hereby authorized on behalf of the Agency or the City, respectively, and without further action by the Agency or the City Council:
 - a. to establish the Effective Date of the City Loan, its maturity date and other terms of the City Loan;
 - b. to execute and deliver any and all documents necessary or desirable in connection with the City Loan; and
 - c. to take any other action which is desirable in order to deliver the City Loan in accordance with this IGA.
10. Default. If an Event of Default occurs, the City may exercise any remedy available at law or in equity. No remedy shall be exclusive. The City may waive any Event of Default, but no such waiver shall extend to a subsequent Event of Default.
11. Effective Date; Termination. This IGA shall be effective as of the date first set out above, but in no event before July 1, 2013, and shall terminate upon payment of the City Loan. The Agency will give the City written notice of the Effective Date immediately after the closing. If the closing does not occur on or before September 30, 2013, this IGA will terminate upon Agency's notice to the City that the closing has not occurred, provided however, that City and Agency may agree to extend the IGA
12. Binding Effect. This IGA will be binding on and inure to the benefit of the parties and their respective successors and assigns.
13. Assignment. None of the rights, interests, or obligations under this IGA will be assigned by any party without the prior written consent of the other parties.
14. Third Party Beneficiaries. Nothing in this IGA is intended or will be construed to confer on any person, other than the parties to this IGA, any right, remedy, or claim under or with respect to this IGA.
15. Amendment. This IGA may be amended only by an instrument in writing executed by the parties, which writing must refer to this IGA.
16. Counterparts. This IGA may be executed in several counterparts, each of which shall be an original and all of which shall constitute one and the same agreement.
17. Notice. Any notices under this IGA will be in writing and effective upon personal delivery to the signatories below or two days after mailing, first class postage prepaid, to a party at the addresses given by written notice to the other party.

IN WITNESS WHEREOF, the parties have executed this IGA.

CITY OF CANBY
CLACKAMAS COUNTY, OREGON

By _____
Authorized Representative

CANBY URBAN RENEWAL AGENCY, the duly
authorized and acting urban renewal agency of the City of
Canby, Oregon

By _____
Authorized Representative

Loan Amortization Schedule

Enter values	
Loan amount	\$ 950,000.00
Annual interest rate	5.00 %
Loan period in years	10
Number of payments per year	1
Start date of loan	7/18/2013
Optional extra payments	\$ -

Loan summary	
Scheduled payment	\$ 123,029.35
Scheduled number of payments	10
Actual number of payments	10
Total early payments	\$ -
Total interest	\$ 280,293.46

Lender name: Sewer Combined Fund to URA

Pmt. No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance	Cumulative Interest
1	7/18/2014	\$ 950,000.00	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 75,529.35	\$ 47,500.00	\$ 874,470.65	\$ 47,500.00
2	7/18/2015	\$ 874,470.65	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 79,305.81	\$ 43,723.53	\$ 795,164.84	\$ 91,223.53
3	7/18/2016	\$ 795,164.84	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 83,271.10	\$ 39,758.24	\$ 711,893.74	\$ 130,981.77
4	7/18/2017	\$ 711,893.74	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 87,434.66	\$ 35,594.69	\$ 624,459.08	\$ 166,576.46
5	7/18/2018	\$ 624,459.08	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 91,806.39	\$ 31,222.95	\$ 532,652.68	\$ 197,799.42
6	7/18/2019	\$ 532,652.68	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 96,396.71	\$ 26,632.63	\$ 436,255.97	\$ 224,432.05
7	7/18/2020	\$ 436,255.97	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 101,216.55	\$ 21,812.80	\$ 335,039.42	\$ 246,244.85
8	7/18/2021	\$ 335,039.42	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 106,277.37	\$ 16,751.97	\$ 228,762.05	\$ 262,996.82
9	7/18/2022	\$ 228,762.05	\$ 123,029.35	\$ -	\$ 123,029.35	\$ 111,591.24	\$ 11,438.10	\$ 117,170.81	\$ 274,434.92
10	7/18/2023	\$ 117,170.81	\$ 123,029.35	\$ -	\$ 117,170.81	\$ 111,312.27	\$ 5,858.54	\$ -	\$ 280,293.46