



**RESOLUTION No. 7-2022**

**A RESOLUTION OF MILWAUKIE REDEVELOPMENT COMMISSION, AUTHORIZING INDEBTEDNESS FOR CERTAIN CAPITAL PROJECTS DESCRIBED IN THE MILWAUKIE URBAN RENEWAL PLAN FOR THE MILWAUKIE URBAN RENEWAL AREA.**

**RECITALS:**

**WHEREAS**, the Milwaukie Redevelopment Commission, Oregon (the “Agency”) is authorized by ORS Chapter 457 to incur indebtedness to carry out the Milwaukie Urban Renewal Plan, as it has been and may be amended (the “Plan”) and by ORS Chapter 190 to enter into intergovernmental agreements; and

**WHEREAS**, the Agency has determined that a borrowing secured by the full faith and credit of the City of Milwaukie, Oregon (the “City”) will provide more beneficial terms to the Agency than a borrowing issued directly by the Agency and secured solely by the Agency’s tax increment revenues for the Milwaukie Urban Renewal Area (the “Area”); and

**WHEREAS**, the City has agreed to finance the cost of certain capital projects in the Plan (the “Urban Renewal Projects”) in an amount not to exceed \$5.5 million and wishes to pay the debt service from the tax increment revenues of the Area; and

**WHEREAS**, the Area is projected to have sufficient tax increment revenues to pay the debt service on the City’s financing for the Urban Renewal Projects; and

**WHEREAS**, the Agency is willing to commit tax increment revenues from the Area in amounts sufficient to pay up to \$5.5 million in principal amount of financing for the Urban Renewal Projects, plus interest; and

**WHEREAS**, the Agency has no borrowings outstanding that are secured by a lien on tax increment revenues of the Area; and

**WHEREAS**, the City has approved a maximum indebtedness for the Area of \$92,500,000, and a \$5.5 million borrowing will not result in the Agency exceeding that limit. and

**Now, therefore, be it Resolved by the Milwaukie Redevelopment Commission**, as follows:

**Section 1. Intergovernmental Agreement Authorized.**

The Agency Board hereby authorizes the Agency to enter into an intergovernmental agreement with the City that obligates the Agency to pay up to \$5.5 million in principal amount, plus interest, to finance the Urban Renewal Projects and pay costs of issuance of the financing. The intergovernmental agreement shall constitute indebtedness of the Agency that is payable solely from the tax increment revenues of the Area. The intergovernmental agreement shall be in

substantially the form attached to this Resolution as Exhibit A but with such changes as are approved pursuant to Section 2 of this Resolution.

**Section 2. Delegation.**

The city manager, the assistant city Manager, or a person designated by the city manager or assistant city manager to act under this resolution is hereby authorized, on behalf of the Agency and without further action by the Agency Board to negotiate the final terms of and execute the intergovernmental agreement described in Section 1 of this Resolution, and to execute any documents and take any other actions that are desirable to assist the City in financing the Urban Renewal Projects.

Introduced and adopted by the Commission on **December 6, 2022**. This resolution is effective immediately upon adoption.

  
\_\_\_\_\_  
Mark F. Gamba, Commission Chair

ATTEST:

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Scott S. Stauffer, City Recorder  
\_\_\_\_\_  
Justin D. Gericke, City Attorney

Exhibit A

FORM OF INTERGOVERNMENTAL AGREEMENT

**INTERGOVERNMENTAL AGREEMENT**

to make financing payments  
by and between the

**Milwaukie Redevelopment Commission**

and the

**City of Milwaukie, Oregon**

Dated as of [Dated Date], 2022

## TABLE OF CONTENTS

### **Section 1. Definitions and Recitals.**

- (1) Definitions.
- (2) Findings.

### **Section 2. The Financing Payments.**

- (1) The Financing Payments.
- (2) Security for the Obligation of the Agency to Pay the Financing Payments.

### **Section 3. Prepayment.**

### **Section 4. Estoppel.**

### **Section 5. Title.**

### **Section 6. Miscellaneous.**

- (1) Binding Effect.
- (2) Severability.
- (3) Amendments.
- (4) Execution in Counterparts.
- (5) Applicable Law.
- (6) Rules of Construction.
- (7) Headings.

Exhibit A - Financing Payments Schedule

## INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement is dated as of [Dated Date], 2022, and is entered into by and between the Milwaukie Redevelopment Commission, Oregon (the “Agency”) and the City of Milwaukie, Oregon (the “City”) in connection with the Milwaukie Urban Renewal Area (the “Area”). The parties hereby agree as follows:

### Section 3. Definitions and Recitals.

(1) Definitions.

Unless the context clearly requires otherwise, capitalized terms used in this Intergovernmental Agreement which are defined in this Section 3(1) shall have the following meanings:

“Financing Agreement” means the Financing Agreement, Series 2022 between the City and [Escrow Agent] which is dated as of [Dated Date], 2022.

“Financing Payments” means the principal and interest payments the City is required to make under the Financing Agreement that are attributable to the Urban Renewal Projects, which payments are provided in Exhibit A hereto.

“IGA Amount” means \$[Principal Amount], the principal amount of the Financing Agreement that is attributable to the Urban Renewal Projects.

“Plan” means the Milwaukie Urban Renewal Plan adopted by the City August 25, 2016 under Ordinance No. 2130, as that plan has been and may in the future be, amended in accordance with its terms.

“Resolutions” means Resolution No. \_\_\_\_\_ adopted by the City Council on [December 6, 2022] and Agency Resolution No. \_\_\_\_\_ adopted by the Agency Board on [December 6, 2022].

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

“Urban Renewal Projects” means the Urban Renewal Projects as described in the Resolutions.

(2) Findings.

- (A) This Agreement is authorized by the Resolutions.
- (B) The City has entered into the Financing Agreement in part to finance the Urban Renewal Projects.
- (C) The Urban Renewal Projects are or will be properly described as urban renewal projects in the Plan and located in the Area when proceeds of this Intergovernmental Agreement are spent on such Urban Renewal Projects.

- (D) So long as the Financing Agreement is outstanding, the Agency and City agree the Urban Renewal Projects will remain owned by the City, Agency or another governmental entity.
- (E) The Agency is authorized to spend Tax Increment Revenues to pay for the costs of the Urban Renewal Projects.
- (F) The Urban Renewal Projects will assist the Agency in carrying out its Plan.
- (G) By entering into this Intergovernmental Agreement, the Agency is issuing debt in the IGA Amount which counts against the Agency's maximum indebtedness limit.
- (H) The Agency's maximum indebtedness limit is \$ 92,500,000; the Agency has made \$\_\_\_\_of expenditures that count against that limit, and therefore has \$\_\_\_\_of unused maximum indebtedness available prior to executing this Intergovernmental Agreement. The Agency certifies that by entering into this Intergovernmental Agreement it will not exceed its maximum indebtedness limit for the Plan.

#### **Section 4. The Financing Payments.**

- (1) The Financing Payments.

The Agency hereby agrees to pay to the City, not less than three business days prior to the dates on which the Financing Payments are due, amounts that are equal to the Financing Payments. The amounts and dates of the Financing Payments are shown in Exhibit A.

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

This Intergovernmental Agreement shall constitute indebtedness of the Agency in a principal amount that is equal to the IGA Amount. The Agency is obligated to make the payments due under this Intergovernmental Agreement solely from the Tax Increment Revenues. Pursuant to ORS 287A.310, the Agency pledges the Tax Increment Revenues to pay the amounts described in Section 4(1) of this Intergovernmental Agreement. The pledge that secures this Intergovernmental Agreement 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 or to allow the Agency to grant a lien on the Tax Increment Revenues on parity with the lien that secures this Intergovernmental Agreement.

#### **Section 5. 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 6. Estoppel.**

The Agency hereby certifies, recites and declares that all things, conditions and acts required by the Constitution and Statutes of the State of Oregon and by this Intergovernmental Agreement to

exist, to have happened and to have been performed precedent to and in the execution and the delivery of this Intergovernmental Agreement, do exist, have happened and have been performed in due time, form and manner, as required by law, and that this Intergovernmental Agreement is a valid and binding obligation of the Agency which is enforceable against the Agency in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other laws or judicial decisions or principles of equity relating to or affecting the enforcement of creditors' rights or contractual obligations generally.

#### **Section 7. Title.**

This Intergovernmental Agreement does not grant the City or the investors in the Financing Agreement a lien on, or security interest in the Urban Renewal Projects.

#### **Section 8. 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.

(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 Clackamas 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 City and the Agency have executed this Intergovernmental Agreement as of [Dated Date], 2022.

**For the Milwaukie Redevelopment Commission**

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Agency Official

**For the City of Milwaukie, Oregon**

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City Official

**EXHIBIT A**

**FINANCING PAYMENTS SCHEDULE**

The Financing Payments are payable semi-annually as outlined in the following table:

[To be provided after the Obligations are sold and pricing is known]