

CITY OF COOS BAY URBAN RENEWAL AGENCY
Agenda Staff Report

MEETING DATE	AGENDA ITEM NUMBER
April 16, 2013	

TO: Chairman Gene Melton and Board Members

FROM: Susanne Baker, Finance Director
Through: Rodger Craddock, City Manager

ISSUE: Resolution 13-03 approves an Intergovernmental Agreement between City of Coos Bay and the Coos Bay Urban Renewal Agency authorizing up to \$735,971 of du jour financing

BACKGROUND:

ORS 457, the Oregon Constitution and as confirmed by the City's Urban Renewal Agency Consultant, Jeff Tashman and the Association of Oregon Revitalization Agencies (AORA), tax increment Urban Renewal revenue can only be spent on debt service. To convert the tax increment Urban Renewal revenue received by the Urban Renewal Agency into debt service, the URA initiates a loan from the City and immediately repays the debt service in a du jour financing. The loan proceeds received by the URA then become available to be expended on capital projects as set forth in the budget. To complete this process, an Intergovernmental Agreement between the City and the Urban Renewal District and resolutions are presented to the Council and URA for approval.

BUDGET IMPLICATIONS:

The du jour financing process was approved in the FYE 13 budget to fund this year's capital projects.

ADVANTAGES:

This process is compliant with Oregon Budget Law and the Constitution to convert \$735,971 tax increment Urban Renewal revenue into spendable debt proceeds.

DISADVANTAGES:

None

ACTION REQUESTED:

If it pleases the Agency, adopt Resolution 13-03 to approve an Intergovernmental Agreement between City of Coos Bay and the Coos Bay Urban Renewal Agency and authorize up to \$735,971 in du jour financing budgeted plan projects of which \$380,137 will be for the Empire District and \$355,834 for the Downtown District.

Coos Bay Urban Renewal Agency

Resolution 13-03

A RESOLUTION OF THE COOS BAY URBAN RENEWAL AGENCY AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT EVIDENCING AUTHORIZATION OF THE SHORT TERM SUBORDINATE URBAN RENEWAL BONDS, SERIES 2013 OF UP TO \$735,971 FROM THE CITY OF COOS BAY FOR THE EMPIRE AND DOWNTOWN URBAN RENEWAL AREAS

WHEREAS, the Urban Renewal Agency (the “Agency”) of the City of Coos Bay, Oregon finds it desirable to authorize the issuance of short term subordinate urban renewal bonds in the amount of not more than \$380,137 for the Empire Urban Renewal Area and an amount of not more than \$355,834 for the Downtown Urban Renewal Area (the “Areas”);

WHEREAS, the City of Coos Bay has approved a maximum indebtedness for the Empire Urban Renewal Area for \$12,550,011. The Agency has previously issued \$4,439,937 of long and short term indebtedness that is subject to the maximum indebtedness limitation, and there is no other indebtedness outstanding for the Area to which the maximum indebtedness limitation applies. As a result the Agency has \$8,110,347 of capacity (before the issuance of the Bonds authorized under this Resolution and excluding refinancings) to incur indebtedness for the Area.

WHEREAS, the City of Coos Bay has approved a maximum indebtedness for the Downtown Urban Renewal Area for \$45,055,764. The Agency has previously issued \$10,124,383 of long and short term indebtedness that is subject to the maximum indebtedness limitation, and there is no other indebtedness outstanding for the Area to which the maximum indebtedness limitation applies. As a result the Agency has \$34,931,381 of capacity (before the issuance of the Bonds authorized under this Resolution and excluding refinancings) to incur indebtedness for the Area.

BE IS RESOLVED BY THE COOS BAY URBAN RENEWAL AGENCY, Coos Bay, Oregon, as follows:

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

“Agency” means the Urban Renewal Agency of the City of Coos Bay, Oregon.

“Agency Official” means the Chair of the Agency, or the person designated by the Chair to act as Agency Official under this Resolution.

“Areas” means the Empire Urban Renewal Area and Downtown Urban Renewal Area which are described in the Plan.

“Bonds” means the Agency’s Short Term Subordinate Urban Renewal Bonds, Series 2013 which are authorized by Section 0 this Resolution.

“Code” means the United States Internal Revenue Code of 1986, as amended.

“Plan” means the Agency’s Empire District Plan, dated as of August 30, 1995 and the Downtown District Urban Renewal Plan, dated September 20, 1988 which are, as those plans have been and may be amended from time to time.

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

“Resolution” means this resolution authorizing the Bond.

“Senior Lien Bonds” means any indebtedness which is payable from the Tax Increment Revenues of the Area and which is outstanding on the date each Bond is issued.

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

“Tax Increment Revenues” means all ad valorem tax revenues from property within the Area 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, a tax levy in connection with the Area pursuant to Article XI, Section 11(16) or the Oregon Constitution and OS 457.435(2)(c) or any replacement statute, and all earnings on the Tax Increment Fund.

Section 2. Authorization of Bond.

2.1. The Agency hereby authorizes the issuance of the Bonds in one or more series in an aggregate principal amount of not more than \$380,137 for the Empire Urban Renewal Area and an amount of not more than \$355,834 for the Downtown Urban Renewal Area; however, the principal amount of each Bond shall not exceed the amount of Tax Increment Revenues which are available in the Tax Increment Fund to pay the Bond on the date the Bond is issued. Tax Increment Revenues shall be considered available to pay the Bond only if those Tax Increment Revenues are not required to be maintained in a debt service fund, reserve fund or similar fund, or as part of a minimum balance or similar requirement, for any Senior Lien Bonds.

2.2. The Bonds shall bear interest which is includable in gross income under the Code. The Bonds shall bear interest at the rate and otherwise have the terms approved by the Agency Official pursuant to Section 0, and shall mature within 30 days after the Bonds is issued.

Section 3. Security for Bonds. The Bonds shall not be a general obligation of the Agency or the City. The principal of and the interest on the Bonds shall be payable solely from the Tax Increment Revenues and from the proceeds of the Bond. The Agency hereby pledges the Tax Increment Revenues to pay the Bond. The lien of this pledge shall be subordinate to the lien of the Senior Lien Bonds, and to any requirement to fund or maintain debt service funds, reserve funds or similar funds or as part of minimum balances or similar requirements for those Senior Lien Bonds. The Agency also hereby pledges the proceeds of the Bond to pay the Bond until such time as the Agency spends those proceeds.

Section 4. The Tax Increment Fund. The Agency covenants to deposit the Tax Increment Revenues into the Tax Increment Fund, and, so long as the Bonds are outstanding, to expend

the Tax Increment Revenues from that Area only for the following purposes, in the following order of priority:

4.1. To pay principal, interest or premium on Senior Lien Bonds and to make deposits to a debt service fund, reserve fund or similar fund, or as part of a minimum balance or similar requirement on Senior Lien Bonds;

4.2. To pay the Bonds; and;

4.3. For any other lawful purpose.

Section 5. Projects Fund; Use of Proceeds. The Project Fund shall be held by the Agency. Proceeds of the Bonds shall be deposited in the Project Fund, and shall be used only to pay for costs of issuing the Bonds, costs of carrying out the Plan, and, if the pledged Tax Increment Revenues are not sufficient, to pay the Bonds.

Section 6. Execution of the Bonds. Each of the Bonds shall be signed with the manual signature of an Agency Official.

Section 7. Delegation. The Agency Official is hereby authorized on behalf of the Agency, and without further action by the Agency:

7.1 to enter into an intergovernmental agreement (the "Intergovernmental Agreement") with the City of Coos Bay to evidence the Loans and obligate the Agency to pay tax increment revenues from the Area to the City in amounts sufficient to pay principal and interest on the Loans. The pledge of the tax increment revenues to pay amounts due under the Intergovernmental Agreement shall be subordinate to the pledge that secures the outstanding borrowings for the Area and future borrowings issued on a parity with those bonds. Subject to the limitations of this resolution, the Intergovernmental Agreement may be in such form and contain such terms as the Agency Official may approve.

7.2. to establish the date of the Bond, its maturity date, redemption dates, interest rate, origination fee and other terms of the Bonds within the limits established by this Resolution;

7.3. to redeem the Bonds on or prior to its stated maturity date;

7.4. to pledge the Tax Increment Revenues, within the limitations established by this Resolution, and the proceeds of the Bonds to pay the Bonds;

7.5. to sell the Bond to a lender offering favorable terms to the Agency, including the City of Coos Bay, Oregon and enter into an agreement with that lender establishing the terms under which the Bonds are sold; and

7.6. to take any other action which is desirable in order to issue, sell, and deliver the Bonds in accordance with this Resolution.

The foregoing resolution was duly adopted by the Urban Renewal Agency of the City of Coos Bay, Coos County, Oregon, City of Coos Bay this 16th day of April 2013.

Gene Melton, Chair

ATTEST:

Susanne Baker, City Recorder

INTERGOVERNMENTAL AGREEMENT RELATED TO LENDING OF FUNDS FROM THE CITY OF COOS BAY TO THE URBAN RENEWAL AGENCY OF THE CITY OF COOS BAY FOR THE PURPOSE OF FUNDING APPROVED PROJECTS AND PLANNING ACTIVITIES WITHIN THE EMPIRE URBAN RENEWAL AREA AND THE DOWNTOWN URBAN RENEWAL AREA.

THIS INTERGOVERNMENTAL AGREEMENT entered into between the City of Coos Bay (the "City"), and the Urban Renewal Agency of the City of Coos Bay, Oregon (the "Agency").

RECITALS:

WHEREAS, the Agency is a public body, corporate and politic, duly activated by the City, exercising its powers and engaged in urban renewal activity as authorized by ORS Chapter 457; and

WHEREAS, the Empire District Urban Renewal Plan (the "Plan") was approved by City Ordinance No. 216 on August 30, 1995, thereafter amended ten times setting out goals, objectives, and projects for the Empire Urban Renewal Area (the "Area"); and

WHEREAS, the Downtown District Urban Renewal Plan (the "Plan") was approved by City Ordinance No. 130 on September 20, 1988, thereafter substantially amended by Ordinance No. 345 on February 17, 2004 and amended six times setting out goals, objectives, and projects for the Downtown Urban Renewal Area (the "Area"); and

WHEREAS, the Board of the Urban Renewal Agency and the Council of the City of Coos Bay have determined that a need exists to provide funds for the ongoing costs associated with the approved projects, planning for and administration of projects and other activities in the Areas, and in accordance with the Plans within the Areas (the "Projects"); and

WHEREAS, the City and the Agency have determined that the issuance of debt obligations to be repaid with tax increment financing is the preferred method and a feasible mechanism for funding projects and activities under the Plans, and that such funding mechanism is constrained by obligations and limitations under Oregon law including ORS Chapter 457 and the Oregon Constitution;

WHEREAS, the City and Agency have determined that financing the Projects through an inter-governmental agreement is in the parties' best interest; and

WHEREAS, ORS 190.010 authorizes the City and the Agency to enter into an intergovernmental agreement, and the City and the Agency so desire,

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

Section 1: Term and Termination. This agreement shall become effective upon the date of the last signature hereon, and shall continue in full force and effect until the loans are paid in full.

Section 2: Duties of the City. The City has authorization to take all actions and execute all documents necessary or desirable to make loans to the Agency to pay for costs of Projects in the Area. The City hereby agrees to make loans to the Agency in the aggregate principal amount not to exceed \$380,137 to finance Projects (the "Loans") in the Empire "Plan" "Area" and further agrees to make loans to the Agency in the aggregate principal amount not to exceed \$355,834 to finance Projects (the "Loans") in the Downtown "Plan" "Area".

Section 3: Duties of the Agency. The Agency has authorization to take all actions and execute all documents necessary or desirable to accept the loans and to evidence such Loans with the issuance of short-term subordinate urban renewal bonds pursuant to ORS Chapter 457 (the "Bonds") and to repay the Loans under the terms and conditions stated herein and in the Bonds. In so doing, the Agency shall comply with the laws of the State of Oregon, the Plan, and the terms and conditions contained within this Agreement. The Agency shall be responsible for its expenses incurred in the performance of this agreement and of its activities contemplated herein.

Section 4: Loan Terms and the Bonds. The terms of the Loans will be reflected in the Bonds issued by the Agency as described in Section 3 above in the form attached hereto as Exhibit A. Such Loans will be repaid by the Agency no later than ten (10) days after the issuance of the Bonds and shall bear interest at the rate of 1% per annum.

Section 5: Security. Each Bond shall constitute an indebtedness of the Agency. The Agency hereby pledges the following to the repayment of the Loan and the Bonds: (1) the amount of taxes calculated based on the increase in the value of property in the Area which are payable to the Agency as permitted by Article IX, Section 1c of the Oregon Constitution (the "Divide the Taxes"); (2) a tax levy in connection with the Area pursuant to Article XI, Section 11(16) of the Oregon Constitution and ORS 457.435(2)(c) or any replacement statute (the "Special Levy"); and (3) earnings on amounts in the fund established under ORS 457.440(6)(b) (the "Tax Increment Fund"). The Divide the Taxes, the Special Levy, and earnings on the Tax Increment Fund shall be referred to herein as the "Tax Increment Revenues." This pledge of the Tax Increment Revenues shall be subordinate to the pledge of Tax Increment Revenues that secures all of the Agency's outstanding bonds for the Area, including the Agency's Empire Urban Renewal Area Urban Renewal Bonds, Series 2002B and the Agency's Downtown Urban Renewal Bonds, Series 2009 and bonds issued on a parity with such bonds.

Section 6: Indemnification. Subject to the limitations in the Oregon Constitution and the Oregon Tort Claim Act, the Parties agree to defend, indemnify, and hold each other, its officers, and employees harmless from the claims, suits, or actions of whatsoever kind, which arise out of or result from the Loans.

Section 7: Modification. This agreement may not be altered, modified, supplemented, or amended in any manner whatsoever except by 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 8: 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 9: 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.

Section 10: Designated Representative. The City authorizes the City Manager or the City Manager's designee to act on behalf of the City under this agreement. The Agency authorizes the Chair of the Urban Renewal Agency or the Chair's designee to act on behalf of the Agency under this agreement.

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

CITY OF COOS BAY

Rodger Craddock
City Manager

Date

URBAN RENEWAL AGENCY OF THE CITY OF COOS BAY, OREGON

Gene Melton
Chair

Date

Exhibit A
Form of Short-Term Subordinate Urban Renewal Bond Series 2013

Loan #5

\$735,971

United States of America
Urban Renewal Agency of the City of Coos Bay
State of Oregon
Empire Urban Renewal Area and Downtown Urban Renewal Area
Short-Term Subordinate Urban Renewal Bond 2013 Series

The Urban Renewal Agency of the City of Coos Bay, Oregon (the "Agency"), for value received, acknowledges itself indebted and hereby promises to pay, but solely from the Tax Increment Revenues of the Empire Urban Renewal Area, as described below, and the proceeds of this Bond, to the City of Coos Bay (the "Owner"), on April 16, 2013, the principal amount of Three Hundred Eighty Thousand One Hundred Thirty-Seven Dollars (\$380,137). This Bond shall bear interest from the date hereof at the rate of 1% per annum, calculated on an actual/360-day basis. Interest is payable at maturity; and

The Urban Renewal Agency of the City of Coos Bay, Oregon (the "Agency"), for value received, acknowledges itself indebted and hereby promises to pay, but solely from the Tax Increment Revenues of the Downtown Urban Renewal Area, as described below, and the proceeds of this Bond, to the City of Coos Bay (the "Owner"), on April 16, 2013, the principal amount of Three Hundred Fifty-Five Thousand Eight Hundred Thirty-Four Dollars (\$355,834). This Bond shall bear interest from the date hereof at the rate of 1% per annum, calculated on an actual/360-day basis. Interest is payable at maturity.

This Bond is authorized by Agency Resolution No. 13-03 which was enacted on April 16, 2013 (the "Resolution"), and was sold and delivered pursuant to an Intergovernmental Agreement Related to Lending of Funds from the City of Coos Bay to the Urban Renewal Agency of the City of Coos Bay for the Purpose of Funding Approved Projects and Planning Activities within the Empire Urban Renewal Area and the Downtown Urban Renewal Area dated April 16, 2013, between the Agency and the Owner (the "Intergovernmental Agreement").

This Bond is subject to redemption at the option of the Agency on any date, in whole or in part, and is subject to mandatory redemption in whole on any date upon the occurrence, at a price of par plus accrued interest.

THIS BOND IS NOT A GENERAL OBLIGATION OF THE AGENCY AND IS PAYABLE SOLELY FROM THE TAX INCREMENT REVENUES OF THE EMPIRE URBAN RENEWAL AREA AND THE DOWNTOWN URBAN RENEWAL AREA AND PROCEEDS OF THIS BOND, AS PROVIDED IN THE RESOLUTION AND THE INTERGOVERNMENTAL AGREEMENT.

This Bond is issued by the Agency for the purpose of financing the costs of urban renewal projects within the Empire Urban Renewal Area and the Downtown Urban Renewal Area in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon.

The Agency has pledged the Tax Increment Revenues of the Areas and the proceeds of this Bond to pay this Bond. The lien of this Bond on the Tax Increment Revenues is subordinate to the lien of the Agency's outstanding bonds for the Areas, as provided in the Resolution.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form, and manner as required by the Constitution and Statutes of the State of Oregon; and that the issue of which this Bond is a part, and all other obligations of the Agency, are within every debt limitation and other limit prescribed by such Constitution and Statutes.

IN WITNESS WHEREOF, the Agency has caused this bond to be executed with the manual signature of its Agency Official as of the date indicated above.

Urban Renewal Agency of the City of Coos Bay, Oregon

Gene Melton, Chair