

**THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE**

**URA RESOLUTION NO. 139**

**A RESOLUTION AUTHORIZING THE ISSUANCE AND  
NEGOTIATED SALE OF URBAN RENEWAL BONDS FOR  
THE YEAR 2000 URBAN RENEWAL AREA.**

WHEREAS the Urban Renewal Agency of the City of Wilsonville is authorized to issue bonds payable from the tax increment revenues of the Year 2000 Urban Renewal Area; and,

WHEREAS the City of Wilsonville has chosen Option One for the Year 2000 Urban Renewal Area as provided in ORS 457.435(2)(a), and is authorized to impose the Special Levies described in ORS 457.435(2)(a); and,

WHEREAS the City of Wilsonville has approved a maximum indebtedness for the Year 2000 Urban Renewal Area of \$53,851,923; the Agency has previously issued \$43,785,000 of long and short term indebtedness, leaving the Agency \$10,066,923 of capacity (excluding refinancings) to incur indebtedness for the Year 2000 Urban Renewal Area; and,

WHEREAS, the Agency adopts this Resolution to authorize the issuance of bonds which are payable from the Tax Increment Revenues of the Year 2000 Urban Renewal Area in a principal amount of not more than \$10,000,000, and to provide the terms under which future urban renewal indebtedness may be issued; now, therefore,

BE IT RESOLVED BY THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE, OREGON, as follows:

**Section 1. Definitions.**

Unless the context clearly requires otherwise, the following terms shall have the following meanings:

“Actual Tax Increment Collections” means the amounts of the Tax Increment Revenues actually received by the Agency in a Fiscal Year.

“Agency Official” means the Finance Director of the City or a person designated by the Finance Director to act as Agency Official under this Resolution.

“Agency” means the Urban Renewal Agency of the City of Wilsonville.

“Annual Debt Service” means the amount scheduled to be paid in a Fiscal Year of principal and interest and premium, if any, on any outstanding Bonds, reduced by the amount of any Bond interest which is scheduled to be paid from Bond proceeds.

“Area” means the City’s Year 2000 Urban Renewal Area described in the Plan, and all additions thereto.

“Bank” means The Bank of the West.

“Base Period” means any 12 consecutive months from the 24 full months preceding the issuance of a Series of Parity Indebtedness.

“Bonds” means the Series 2003 Bond, the Series 2004 Bond, the Series 2005 Bond and any Parity Indebtedness.

“City” means the City of Wilsonville, Oregon.

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

“Divide the Taxes Revenues” means the amount of taxes calculated based on the increase in value of property in the Area which are payable to the Agency as permitted by Article IX, Section 1c of the Oregon Constitution.

“Fiscal Year” means the period beginning on July 1 of each year and ending on the next succeeding June 30, or as otherwise defined by Oregon law.

“Government Obligations” means direct, noncallable obligations of the United States, or obligations the principal of and interest on which are fully secured and unconditionally guaranteed by the United States.

“Maximum Annual Debt Service” means the greatest Annual Debt Service, calculated on all Bonds which are Outstanding on the date of calculation.

“Parity Indebtedness” means obligations issued in compliance with Section 5 of this Resolution which are secured by a lien on, and pledge of, the Security which is on a parity with the lien on, and pledge of, the Security which secures the Series 2003, Series 2004 and Series 2005 Bonds.

“Permitted Investments” means any investments in which the Agency is authorized to invest surplus funds under the laws of the State of Oregon.

“Plan” means the Agency's Year 2000 Urban Renewal Plan which was originally dated August 29, 1990, as it has been subsequently amended and as that plan may be amended from time to time in the future.

“Reserve Requirement” means the lesser of Maximum Annual Debt Service on all Outstanding Bonds or the amount described in the next sentence. If, at the time of issuance of a Series of Bonds, the amounts required to be added to the Bond Reserve Account to make the balance in the Bond Reserve Account equal to the Maximum Annual Debt Service exceeds the Tax Maximum calculated with respect to that Series, then the Reserve Requirement means the Reserve Requirement in effect immediately before the issuance of that Series of Bonds (calculated as if that Series of Bonds were not Outstanding), plus the Tax Maximum for the Series of Bonds.

“Resolution” means this Resolution authorizing the Series 2005 Bond, as it may be amended from time to time pursuant to Section 6.

“Security” means all Tax Increment Revenues, all amounts in the Tax Increment Fund (including earnings on amounts in the Tax Increment Fund).

“Series 2003 Bond” means the Agency’s Year 2000 Urban Renewal Area Urban Renewal Bond, Series 2003 which was authorized by Section 9 of URA Resolution No. 104.

“Series 2004 Bond” means the Agency’s Year 2000 Urban Renewal Area Urban Renewal Bond, Series 2004 which was authorized by Section 9 of URA Resolution No. 104.

“Series 2005 Bond” means the Agency’s Year 2000 Urban Renewal Area Urban Renewal Bond, Series 2005 which is authorized by Section 9 of this resolution.

“Series 2005 Purchase Agreement” means the agreement between the Bank and the Agency under which the Agency sells, and the Bank buys, the Series 2005 Bonds.

“Series” refers to all Bonds that are sold at the same time unless the authorizing resolution or closing documents specify differently.

“Special Levy” means a tax levy in connection with the Area pursuant to Article XI, Section 11(16) of the Oregon Constitution and ORS 457.435(2)(a) or any replacement statute.

“Subordinate Indebtedness” means obligations which have a subordinate lien on the Tax Increment Revenues and are issued in compliance with Section 5.4.

“Tax Increment Fund” means the fund established under ORS 457.440(6)(b) to hold the Tax Increment Revenues.

“Tax Increment Revenues” means the Divide the Taxes Revenues and the proceeds of any Special Levy.

“Tax Maximum” means, for any Series of Bonds, the lesser of: the greatest amount of principal, interest and premium, if any, required to be paid in any Fiscal Year on such Series; 125% of average amount of principal, interest and premium, if any, required to be paid on such Series during all Fiscal Years in which such Series will be Outstanding, calculated as of the date of issuance of such Series; or, ten percent of the proceeds of such Series, as “proceeds” is defined for purposes of Section 148(d) of the Code.

## **Section 2. Security for Bonds.**

2.1. The Bonds shall not be general obligations of the Agency. The Agency shall be obligated to pay the Bonds solely from the Security.

2.2. The Agency hereby irrevocably pledges the Security to pay the Bonds. Pursuant to ORS 288.594, the pledge of the Security shall be valid and binding from the time of the adoption of this Resolution. The Security so pledged and hereafter received by the Agency shall immediately be subject to the lien of such pledge without any physical delivery or further act, and the lien of the pledge shall be superior to all other claims and liens whatsoever to the fullest extent permitted by ORS 288.594(2). The Agency warrants that the Security is free of all other liens and encumbrances except for the lien created by this Resolution and the resolutions authorizing the Outstanding Bonds, and shall defend Bank's rights in the Security against the claims and demands of all other persons. The Agency further warrants that the pledge of the Security and other terms of this Resolution do not violate any law or agreement governing the Agency or to which the Agency is a party.

2.3. The Agency covenants that, so long as Bonds are outstanding it shall take whatever action may be required to collect the full amount of the Divide the Taxes Revenues each Fiscal Year.

2.4. Before reducing the Area the Agency Official shall project the Maximum Tax Increment Revenues which will be available from the Area after it is reduced. The Agency covenants that it shall not reduce the Area unless the Agency Official reasonably projects that the Area, after the reduction, will have Maximum Tax Increment Revenues which are at least equal to one hundred twenty-five percent (125.00%) of the Maximum Annual Debt Service on all then Outstanding Bonds.

2.5. The Agency reserves the right to increase its Maximum Indebtedness or take any other actions which may cause the Agency to lose the ability to collect the Special Levy for the Area. However, to the extent that the Agency does collect any Special Levy, the proceeds of the Special Levy shall be Tax Increment Revenues and shall be pledged to pay all Bonds.

2.6. The provisions of this Resolution shall constitute a contract with the owners of the Bonds, and shall be enforceable by them.

### **Section 3. The Tax Increment Fund.**

3.1. The Agency has previously established the Tax Increment Fund. The Tax Increment Fund shall be divided only into the following accounts: the Bond Payment Account, the Bond Reserve Account and the Subordinate Indebtedness Account. The Agency shall not create additional accounts in the Tax Increment Fund, but may create subaccounts in those accounts.

3.2. Until all Bonds are paid or defeased, the Agency shall deposit all Actual Tax Increment Collections in the Tax Increment Fund, and shall credit each deposit to the following accounts within the Tax Increment Fund in the following order of priority:

- (A) to the Bond Payment Account, until the Bond Payment Account contains an amount sufficient to pay the Annual Debt Service for that Fiscal Year;
- (B) to the Bond Reserve Account, if the balance in the Bond Reserve Account is then less than the Reserve Requirement, an amount sufficient to make the balance in the Bond Reserve Account equal to the Reserve Requirement; and,

- (C) to the Subordinate Indebtedness Account, any amounts which remain after the foregoing deposits have been made.

3.3. Five (5) days before any payment date, if the balance in the Bond Payment Account is less than the amount of Bond principal, interest and premium, if any, due on that Payment Date, the Agency shall credit to the Bond Payment Account an amount equal to the deficiency from the following accounts in the following order of priority:

- (A) the Subordinate Indebtedness Account; and,
- (B) the Bond Reserve Account.

#### **Section 4. Accounts.**

4.1. Amounts credited to the Bond Payment Account shall be used only to pay Bond principal, interest and premium, if any. Amounts credited to the Bond Payment Account shall be invested in Permitted Investments which mature within one year.

4.2. The Agency covenants to fund, maintain and use the Bond Reserve Account as provided in this Section 4.2 as long as any Bonds are Outstanding. Except as specifically provided in this Section 4.2, amounts credited to the Bond Reserve Account shall be used only to pay Bond principal, interest and premium, if any, and only if sufficient funds are not available in the Bond Payment Account or the Subordinate Indebtedness Account.

- (A) At closing of the Series 2005 Bond and each subsequent series of Parity Indebtedness the Agency shall deposit into the Bond Reserve Account an amount sufficient to make the balance in the Bond Reserve Account at least equal to the Reserve Requirement. The deposit may be made from amounts available in the Subordinate Indebtedness Account, from Bond proceeds, or other amounts available to the Agency.
- (B) The Agency covenants to maintain a balance in the Bond Reserve Account which is equal to the Reserve Requirement, but solely from deposits of Tax Increment Revenues pursuant to Section 3.2(B) of this Resolution and closing deposits pursuant to Section 4.2(A).
- (C) Amounts in the Bond Reserve Account shall be invested in Permitted Investments which shall mature not later than the last maturity date of Outstanding Bonds. Permitted Investments in the Bond Reserve Account which mature in five years or less shall be valued at their cost, and Permitted Investments which mature in more than five years shall be valued at the lesser of cost or market.
- (D) If the balance in the Bond Reserve Account is less than the Reserve Requirement, the Agency shall begin making transfers of Tax Increment Revenues to the Bond Reserve Account in accordance with Section 3.2(B). The transfers shall continue until the balance in the Bond Reserve Account is equal to the Reserve Requirement.

- (E) If balance in the Bond Reserve Account exceeds the Reserve Requirement, the Agency may transfer the excess to the Bond Payment Account or, if the balance in the Bond Payment Account at that time is at least equal to the remaining, unpaid Annual Debt Service for that Fiscal Year, to the Subordinate Indebtedness Account.
- (F) Earnings on the Bond Reserve Account shall be credited to the Bond Reserve Account whenever the balance in the Bond Reserve Account is less than the Reserve Requirement; otherwise earnings on the Bond Payment Account shall be credited to the Bond Payment Account.
- (G) All amounts on deposit in the Bond Reserve Account may be applied to the final payment (whether at maturity or by prior redemption) of Outstanding Bonds. Amounts so applied shall be credited against the amounts the Agency is required to transfer into the Bond Payment Account under Section 3.2(A).
- (H) Amounts in the Bond Reserve Account may be transferred into escrow to defease Bonds, but only if the balance remaining in the Bond Reserve Account after the transfer is at least equal to the Reserve Requirement for the Bonds which remain Outstanding after the defeasance.

4.3. Money in the Subordinate Indebtedness Account may be used at any time for any legal purpose permitted under Chapter 457 of the Oregon Revised Statutes. However, if there is a deficiency in the Bond Payment Account or the Bond Reserve Account, Tax Increment Revenues credited to the Subordinate Indebtedness Account shall be used to eliminate the deficiency (in the order of priority described in Section 3.2) before money in the Subordinate Indebtedness Account is used for any other purpose.

## **Section 5. Senior, Parity and Subordinate Indebtedness**

5.1. The Agency shall not issue obligations which have a lien on the Security which is superior to the lien of the Bonds.

5.2. Except as provided in Section 5.3, the Agency may issue Parity Indebtedness only if all of the following conditions are met:

- (A) As of the date of Closing of the Parity Indebtedness, no Event of Default under this Resolution has occurred and is continuing.
- (B) On or before the date of closing of the Parity Indebtedness the Agency files in its public records either:
  - (1) a certificate of the Agency Official stating that the Maximum Tax Increment Revenues for the Base Period at least equaled one hundred twenty-five percent (125.00%) of the Maximum Annual Debt Service on all then Outstanding Bonds, with the proposed Parity Indebtedness treated as Outstanding; or,
  - (2) a certificate or opinion of a Qualified Consultant:

- (a) stating the projected amount of the Maximum Tax Increment Revenues for the Fiscal Year in which the proposed Parity Indebtedness is issued and the projected amount of the Maximum Tax Increment Revenues for each of the four Fiscal Years after the Fiscal Year in which the proposed Parity Indebtedness are issued;
- (b) concluding that the respective amounts of projected Maximum Tax Increment Revenues in each of the Fiscal Years described in Section 5.2(B)(2)(a) are at least equal to one hundred twenty-five percent (125.00%) of the Scheduled Debt Service for each of those respective Fiscal Years on all Outstanding Bonds, with the proposed Parity Indebtedness treated as Outstanding and all Outstanding Bonds;
- (c) stating the projected amount of the Maximum Tax Increment Revenues for the fifth Fiscal Year after the Fiscal Year in which the Parity Indebtedness are issued; and,
- (d) concluding that this amount described in Section 5.2(B)(2)(c) is at least equal to one hundred twenty-five percent (125.00%) of the Maximum Annual Debt Service on all Outstanding Bonds, with the proposed Parity Indebtedness treated as Outstanding.

5.3. The City may issue Parity Indebtedness to refund Outstanding Bonds without complying with Section 5.2. if:

- (A) the refunded Obligations are defeased on the date of delivery of the refunding Parity Indebtedness; and,
- (B) the Annual Debt Service on the refunding Parity Indebtedness does not exceed the Annual Debt Service on the refunded Obligations in any Fiscal Year by more than \$5,000.

5.4. The Agency may issue Subordinate Indebtedness only if the Subordinate Indebtedness is not payable from any account of the Tax Increment Fund except the Subordinate Indebtedness Account, and the Subordinate Indebtedness clearly states that:

- (A) It is secured by a lien on or pledge of the Security which is subordinate to the lien on, and pledge of, the Security for the Bonds; and,
- (B) It is not payable from any account of the Tax Increment Fund except the Subordinate Indebtedness Account.

**Section 6. Amendment of Resolution.**

6.1. **Amendment without Bondowner Consent.** The Agency may amend this Resolution without the consent of Bondowners for any one or more of the following purposes:

- (A) To cure any ambiguity or formal defect or omission in the Resolution;
- (B) To add to the covenants and agreements of the Agency in the Resolution, other covenants and agreements to be observed by the Agency which are not contrary to or inconsistent with this Resolution as theretofore in effect;
- (C) To authorize issuance of Bonds or Subordinate Obligations;
- (D) To modify, amend or supplement this Resolution to qualify this Resolution under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of any Bonds for sale under the securities laws of any of the states of the United States of America;
- (E) To confirm, as further assurance, any security interest or pledge created under the Resolution;
- (F) To make any changes that are desirable to clarify that the Agency is not obligated to collect, or maintain the ability to collect, Special Levies;
- (G) To make any change that, in the reasonable judgment of the Agency, does not materially and adversely affect the rights of Bondowners; or,
- (H) To modify any of the provisions of this Resolution in any other respect whatever, as long as the modification shall take effect only after all Bonds which are Outstanding at the time of the modification cease to be Outstanding.

6.2. **Amendment with Bondowner Consent.** Except as provided below in this Section 6.2, this Resolution may be amended for any other purpose only upon consent of owners of not less than fifty-one percent (51%) in aggregate principal amount of the Bonds Outstanding. Any amendment pursuant to this Section 6.2 shall require the prior written consent of the Bank (which shall not be unreasonably withheld) if the Bank owns any portion of the principal amount of the Bonds, and no amendment shall be valid without the consent of Bondowners of 100 percent of the aggregate principal amount of the affected, Outstanding Bonds which:

- (A) Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bondowner; or
- (B) Reduces the percent of Bondowners required to approve Supplemental Resolutions.

6.3. **Bank Consent.** The consent of the Bank is required for any amendment described in Section 6.1(G). The consent of the Bank is not required for other amendments described in Section 6.1 provided there is no material adverse effect to the Bank's rights under this Resolution and the purchase agreement under which the Agency sells the Series 2005 Bond to the Bank.



## **Section 7. Default and Remedies.**

- 7.1. The occurrence of one or more of the following shall constitute an Event of Default:
- (A) Failure by the Agency to pay Bond principal, interest or premium when due (whether at maturity, or upon redemption after a Bond has been properly called for redemption);
  - (B) Failure by the Agency to observe and perform any covenant, condition or agreement which this Resolution requires the Agency to observe or perform for the benefit of Owners of Bonds, which failure continues for a period of 60 days after written notice to the Agency by the Owners of ten percent or more of the principal amount of Bonds then outstanding (or the Bank if the Bank owns any portion of the principal amount of the Bonds) specifying such failure and requesting that it be remedied; provided however, that if the failure stated in the notice cannot be corrected within such 60 day period, it shall not constitute an Event of Default so long as corrective action is instituted by the Agency within the 60 day period and diligently pursued, and the default is corrected as promptly as practicable.
- 7.2. Upon the occurrence and continuance of any Event of Default hereunder, Bondowners representing at least ten percent of the then outstanding principal amount of the Bonds, or the Bank if the Bank owns any portion of the principal amount of the Bonds, may take whatever action may appear necessary or desirable to enforce or to protect any of the Bondowner's rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Resolution or in aid of the exercise of any power granted in this Resolution or for the enforcement of any other legal or equitable right vested in the Bondowners by this Resolution or by law. However, the Bonds shall not be subject to acceleration.
- 7.3. No remedy in this Resolution conferred upon or reserved to the Bank is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Resolution or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. To entitle the Bank to exercise any remedy reserved to them, it shall not be necessary to give any notice other than such notice as may be required by this Resolution or by law.
- 7.4. The Bank may waive any Event of Default with respect to the Series 2005 Bond, but no such waiver shall extend to a subsequent Event of Default. No delay or omission of the Bank to exercise any right or power arising upon the happening of an Event of Default shall impair any right or power or shall be construed to be a waiver of any such Event of Default or to be an acquiescence therein; and every power and remedy given by this section to the Bank may be exercised from time to time and as often as may be deemed expedient by the Bank.

## **Section 8. Defeasance.**

The Agency shall be obligated to pay any Bonds which are defeased in accordance with this Section 8 solely from the money and Government Obligations which are deposited in escrow agent pursuant to this Section 8. Bonds shall be deemed defeased if the Agency:

- 12.1. irrevocably deposits money or noncallable Government Obligations in escrow with an independent trustee or escrow agent which are calculated to be sufficient without reinvestment for the payment of Bonds which are to be defeased; and,
- 12.2. files with the escrow agent or trustee an opinion from a Qualified Consultant to the effect that the money and the principal and interest to be received from the Government Obligations are calculated to be sufficient, without further reinvestment, to pay the defeased Bonds when due.

## **Section 9. The Series 2005 Bond.**

9.1. Authorization. The Agency hereby authorizes the sale and delivery of the Series 2005 Bond in accordance with this Resolution to finance urban renewal projects in the Area and to pay costs of issuing the Series 2005 Bond. The principal amount of the Series 2005 Bond shall not exceed Ten Million Dollars (\$10,000,000) and the Series 2005 Bond shall be issued in compliance with the requirements for Parity Indebtedness in this Resolution.

9.2. Delegation. The Agency Official may, on behalf of the Agency:

- (A) Negotiate the sale of the Series 2005 Bond with the Bank and enter into the Series 2005 Purchase Agreement with the Bank.
- (B) Participate in the preparation of, authorize the distribution of, and deem final any disclosure documents that are required for the Series 2005 Bond.
- (C) Enter into additional covenants and provisions which the Agency Official determines are desirable to sell the Series 2005 Bond on favorable terms.
- (D) Establish the final principal amounts, maturity schedules, interest rates, sale prices, redemption terms, payment terms and dates of the Series 2005 Bond.
- (E) Designate the Series 2005 Bond as a "qualified tax-exempt obligation" under Section 265(b) of the Code.
- (F) Issue, sell and deliver the Series 2005 Bond.
- (G) Execute any documents and take any other action which the Agency Official finds is desirable to carry out this Resolution.

9.3. Form. The Series 2005 Bond shall be in the form of a single, registered installment bonds that is approved by the Agency Official. The Series 2005 Bond shall be executed on behalf of the

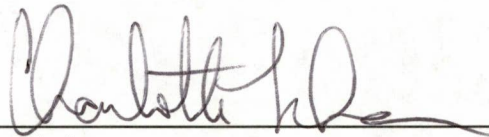
Agency with the facsimile or manual signatures of the Chair and the Agency Official. The Series 2005 bond shall contain the following paragraph:

**THIS BOND IS NOT A GENERAL OBLIGATION OF THE CITY OF WILSONVILLE OR THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE, AND IS NOT PAYABLE FROM ANY FUNDS OF THE CITY OF WILSONVILLE OR THE URBAN RENEWAL AGENCY OF THE CITY OF WILSONVILLE EXCEPT THE SECURITY, AS DEFINED AND PROVIDED IN THE RESOLUTION AUTHORIZING THIS BOND. THIS BOND DOES NOT CONSTITUTE A DEBT OR INDEBTEDNESS OF THE CITY OF WILSONVILLE, THE STATE OF OREGON, OR ANY POLITICAL SUBDIVISION THEREOF EXCEPT THE AGENCY.**

9.4. Tax Covenants. The Agency covenants not to take any action, or omit to take any action, if the taking or omitting would cause interest on the Series 2005 Bond to become includable in gross income under the Code. The Agency Official may, on behalf of the Agency, enter into additional covenants to protect the tax-exempt status of the Series 2005 Bond.

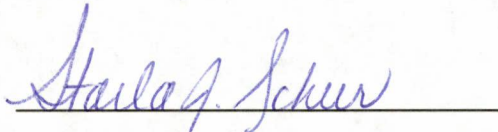
ADOPTED by the Wilsonville Urban Renewal Agency at a regular meeting thereof this 19<sup>th</sup> day of September, 2005.

BY



Chair

ATTEST:



Starla J. Schur, Deputy City Recorder

SUMMARY OF VOTES:

Chair Lehan	Yes
Member Knapp	Yes
Member Scott-Tabb	Yes
Member Kirk	Yes
Member Holt	Yes