

RESOLUTION 07-R-762

RESOLUTION OF THE CITY OF BROOKINGS
AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND
BY ENTERING INTO AN INTERIM LOAN CONTRACT AND A PERMANENT LOAN CONTRACT
WITH THE OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

The City Council (the "Governing Body") of the City of Brookings (the "Municipality") finds:

- A. The Municipality is a "municipality" within the meaning of Oregon Revised Statutes 285B.410(7).
- B. Oregon Revised Statutes 285B.410 through 285B.479 (the "Act") authorize any municipality to file an application with the Oregon Economic and Community Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund.
- C. The Municipality has filed an application with the Department to obtain financial assistance for an "infrastructure project" within the meaning of the Act.
- D. The Department has approved the Municipality's application for financial assistance from the Special Public Works Fund pursuant to the Act.
- E. The Department is not able to provide long-term, permanent financial assistance prior to the date the City needs funds to begin construction of the project, as determined below, but is able to provide interim financing for the City's commencement of construction.
- F. The Department intends to provide long-term, permanent financial assistance prior to the maturity date on the interim financing to allow the City to complete construction and to repay the interim financing loan.
- G. The Municipality is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into a Financial Assistance Award Contract and a Loan Agreement with the Department.
- H. The project described in Exhibit A attached hereto (the "Project"), is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the Municipality.
- I. Notice relating to the Municipality's consideration of the adoption of this Resolution was published in full accordance with the City of Brookings' charter and laws for public notification.

NOW THEREFORE, BE IT RESOLVED by the Governing Body of the Municipality as follows:

1. Interim Financing Loan Authorized. The Governing Body authorizes the Mayor to execute the Financial Assistance Award Contract, Interim Financing Loan Agreement, the Promissory Note and such other documents as may be required to obtain financial assistance including an interim financing loan from the Department on the condition that the principal amount of the interim financing loan from the Department to the Municipality is not in excess of \$4,000,000 and the interest rate is a percent deemed reasonable by the Mayor and in the best interest of the City of Brookings. The proceeds of the interim financing loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Interim Loan Agreement.
2. Permanent Loan Authorized. The Governing Body authorizes the Mayor to execute the Financial Assistance Award Contract, Loan Agreement, Promissory Note and such other documents as may be required to obtain financial assistance including a permanent financing loan from the Department on the condition that the principal amount of the permanent loan from the Department to the Municipality is not in excess of \$4,000,000 and the interest rate is a percent deemed reasonable by the Mayor and in the best interest of the City of Brookings. The proceeds of the permanent financing loan from the Department shall be applied solely to repayment of the interim financing loan and the "Costs of the Project" as such term is defined in the Loan Agreement.
3. Security. Amounts payable by the Municipality shall be payable from the sources described in the Oregon Revised Statutes Section 285B.443(2) which include:
 - a. any sources of funds that are legally available to the Municipality;
 - b. the revenues, if any, of the Project, including special assessment revenues, if any, and
 - c. the Municipality's general fund including the general revenues of the Municipality, other funds which may be available for such purpose and a pledge of the Municipality's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. The obligation of the Municipality to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the Municipality that is not subject to annual appropriation.
4. Additional Documents. The Mayor is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.
5. Tax-Exempt Status. The Municipality covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Municipality pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Mayor of the Municipality may enter into covenants on behalf of the Municipality to protect the tax-exempt status of the interest paid by the Municipality pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

6. Reimbursement Bonds. The Municipality may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, the Municipality understands that the Department may fund or reimburse itself for the funding of amounts paid to the Municipality pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Resolution shall constitute "official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Municipality's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.
7. Declaration of Emergency. The Governing Body declares that an emergency exists in order that there be no delay in financing the Project as provided in this Resolution. Therefore, this Resolution shall be in force and effect from and after passage by the Governing Body.

DATED this 27th day of February, 2007.

City of Brookings


Mayor Pat Sherman

ATTEST:


Paul Hughes - Administrative Services Director/Recorder

PROJECT DESCRIPTION

Borrower will make water system improvements in accordance with Borrower's Water System Master Plan and Water Conservation Management Plan dated April 2000. Borrower's improvements will include an approximately 2-million-gallon storage reservoir, approximately 4,900 linear feet of transmission main, a new booster pumping system, and distribution improvements to increase System capacity.