

RESOLUTION No. 838

A RESOLUTION OF THE CITY OF CANBY 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

WHEREAS, The City Council (the “Governing Body”) of the City of Canby (the “Municipality”) finds:

- A. The Municipality is a “municipality” within the meaning of Oregon Revised Statutes 285B.410(4).
- 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 will be able 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 at least once in a newspaper of general circulation within the City of Canby. Such notice was published at least 14 days in advance of the adoption of this Resolution.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Canby as follows:

1. Interim Financing Loan Authorized. The Governing Body authorizes the City Administrator 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 \$1,950,000 and the interest rate is a percent deemed reasonable by the City Administrator and in the best interest of the City of Canby. 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 City Administrator 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 \$1,950,000 and the interest rate is a percent deemed reasonable by the City Administrator and in the best interest of the City of Canby. 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 City Administrator 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 [name of officer] 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 than 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.

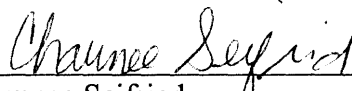
DATED this 16th day of July, 2003.

CITY OF CANBY



Melody Thompson
Mayor

ATTEST:



Chaunee Seifried
City Recorder pro-tem

PROJECT DESCRIPTION

Borrower will contract to design and construct two 50-foot wide, paved sections of roadway and associated infrastructure and landscaping that will result in direct access for approximately 100 acres of industrial land in the Pioneer Industrial Park that will have frontage onto Sequoia Parkway. The first section of paved roadway will extend Sequoia Parkway for approximately 1,700 lineal feet from its present terminous near Highway 99E southward and eastward to the Canby city limits and a new deadend. In connection with the extension of Sequoia Parkway as described above, Borrower will also construct, on the 600 feet (approximately) of Sequoia Parkway ending at its current terminous, half street improvements to match the existing improvements in the vicinity of the new Canby Market Center development anchored by Fred Meyer on Highway 99E. The second section of paved roadway will consist of a new roadway (Hazeldell Way aka SE 1st Avenue) extending approximately 300 lineal feet eastward from Sequoia Parkway opposite Canby Market Center to a deadend.

In connection with the construction of the paved roadways, the Borrower must also install, along the new roadways and in the public right-of-way, sanitary sewer, water, stormwater, power, telephone, gas, and cable service, meeting the following requirements:

1. The 12" sanitary sewer must be extended, from its current terminous, along the new sections of both Sequoia Parkway and SE 1st Avenue to their new termination points (largely a gravity collection system). Two pump stations are proposed in the future as development occurs. An existing 12" sanitary sewer line currently exists along 1000' of Sequoia Parkway from Highway 99E. The initial 1000' was completed as part of the Canby Market Center development in 1999.
2. The water improvements must include a 12" main line extended to the termination of both Sequoia Parkway and SE 1st Avenue.
3. Storm drainage must consist of approximately 12 drywells and approximately 8 pollution control manholes. Each catch basin must be fitted with filtration.
4. The power, telephone, gas, and cable service must be extended to the termination of both Sequoia Parkway and SE 1st Avenue and must include, with respect to electrical power, conduit installation, primary switch gear, and street lighting and, with respect to telephone, gas and cable service, the utility trenches and backfill (with actual installation of the lines left to the utility companies).