

AGENDA

CANBY CITY COUNCIL MEETING

May 7, 2008, 7:30 P.M.

Council Chambers

155 NW 2nd Avenue

Mayor Melody Thompson

Council President Walt Daniels

Councilor Teresa Blackwell

Councilor Paul Carlson

Councilor Randy Carson

Councilor Tony Helbling

Councilor Wayne Oliver

CITY COUNCIL MEETING

1. CALL TO ORDER

- A. Pledge of Allegiance and Moment of Silence
- B. National Association of Letter Carriers National Food Drive Day Proclamation Pg. 1
- C. Poppy Days in Canby Proclamation Pg. 2
- D. Historical Society Day Proclamation Pg. 3

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

- A. Approval of Minutes of the April 9, 2008 City Council Work Session
- B. Approval of Minutes of the April 16, 2008 City Council Work Session and Regular Meeting
- C. Approval of Minutes of the April 23, 2008 City Council Special Meeting
- D. Amendment to Puddin' River Chocolates & Wine Bar Liquor License Application Pg. 4
- E. Street Closure Request for S. Ponderosa Street Between 13th & 15th Avenues Pg. 8

7. RESOLUTIONS & ORDINANCES

- A. Res. 974, Authorizing Loan from the Special Public Works Fund by Entering into an Interim Loan Contract and a Permanent Loan Contract with the OECDD Pg. 12

- B. Res. 976, Authorizing the Canby Urban Renewal Agency Board to Enter into an Option Contract to Purchase Real Property Located at 301 NE Third Street Pg. 18
- C. Res. 977, Extending Municipal Sewer Service to 470 S. Walnut St. Tax Lot 2800 of Tax Map 3-1E-34 Located Outside of the Canby City Limits, Pursuant to the Urban Growth Management Agreement Between Clackamas County and the City of Canby Pg. 42
- D. Res. 978, Adopting Amended IGA with the Canby Urban Renewal Agency Regarding Construction of S. Sequoia Parkway Phases 5 & 6 and S. Berg Parkway Pg. 44
- E. Ord. 1273, Authorizing Contract with Signature Paving Services, Inc. to Pave an Area of Community Parks for the Canby Parks Department (2nd Reading) Pg. 48

8. NEW BUSINESS

- A. Appointment of City Treasurer Pro Tem

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

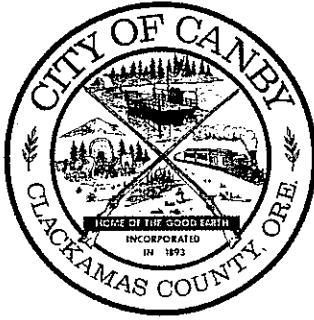
10. CITIZEN INPUT

11. ACTION REVIEW

- 12. EXECUTIVE SESSION:** ORS 192.660(2)(e) Real Property, ORS 192.660(2)(h) Pending Litigation, and ORS 192.660(2)(i) Performance Evaluation of Public Officer

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.



Office of the Mayor

Proclamation

National Association of Letter Carriers National Food Drive Day

WHEREAS, the National Association of Letter Carriers, in conjunction with the United States Postal Service, AFL-CIO, United Way and local food banks are coordinating a non-perishable food drive; and

WHEREAS, the Saint Vincent de Paul Food Bank at St. Patrick's Church and Canby's local food banks are in need of food at all times; and

WHEREAS, the local food bank shelves are continually in need of replenishment due to the ongoing dramatic increase in the need for food; and

WHEREAS, the local letter carriers will collect non-perishable food items placed by mailboxes on Saturday, May 10, 2008.

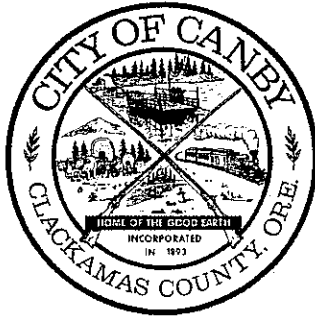
NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim Saturday, May 10, 2008 as

2008 National Association of Letter Carriers National Food Drive Day

and urge all citizens of the City of Canby to participate in this worthwhile event by donating non-perishable food items to help feed those who are in need.

Given unto my hand this 7th day of May, 2008.

Melody Thompson
Mayor



Office of the Mayor

Proclamation

Poppy Days in Canby

WHEREAS, the American Legion Auxiliary adopted the poppy as its memorial flower which pays tribute to the war dead and serves as a source of aid to surviving veterans and their families; and

WHEREAS, the contributions provided by the American Legion Auxiliary are put to good use in support of the children and youth of the Canby community and toward the rehabilitation and care of veterans; and

WHEREAS, the work of the American Legion Auxiliary through the annual sale of poppies is a proper and fitting tribute to the acts of patriotism and courage made by our nation's veterans in time of national need.

NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim the month of May 2008 as

Poppy Month

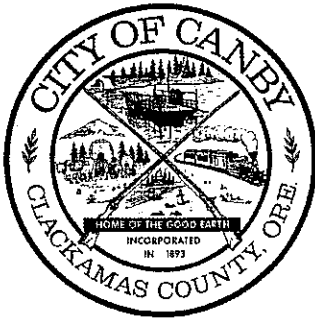
and I do further proclaim the week of May 25 through May 31, 2008 as

Poppy Days in the City of Canby

and urge all citizens of the City of Canby to proudly remember the sacrifices made by the members of our Armed Forces by contributing to the American Legion Auxiliary during the month of May 2008 in support of their service to our country's veterans.

Given unto my hand this 7th day of May, 2008.

Melody Thompson
Mayor



Office of the Mayor

Proclamation

CANBY HISTORICAL SOCIETY DAY

WHEREAS, The Canby Historical Society was incorporated on May 15, 1968 by John R. Nieland, Herman A. Bergman and Viola Mack; and

WHEREAS, The Canby Historical Society preserves our rich heritage and inspires an appreciation and understanding of Canby area history; and

WHEREAS, The society is an active civic organization whose members collect artifacts, photographs and stories on behalf of it for the benefit and enjoyment of citizens of Canby and surrounding communities; and

WHEREAS, As the town of Canby grows, it becomes more important to remember the past and preserve our heritage; and

WHEREAS, The Depot Museum houses thousands of photos, artifacts, memorabilia and collections from local citizens; and

WHEREAS, On May 20, 2008, the Canby Historical Society will be celebrating its 40th birthday at 7:00 P.M. at the Canby Depot Museum.

NOW THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as the Mayor of the City of Canby, do hereby proclaim May 20, 2008 as:

"CANBY HISTORICAL SOCIETY DAY"

in the City of Canby, Oregon and urge all citizens to join me in celebration and recognition of the contributions this organization has made.

Given unto my hand this 7TH day of May 2008 in the City of Canby, Oregon.

Melody Thompson
Mayor

City of Canby

Memorandum

TO: Mayor Thompson
Members of City Council

FROM: Kim Scheafer, CMC
Executive Assistant, City Recorder Pro-Tem

DATE: April 29, 2008

RE: Amendment to Puddin' River Chocolates & Wine Bar Liquor
License Application

ISSUE:

On April 16, 2008 the Canby City Council approved a Limited On-Premises Sales Liquor License Application for Puddin' River Chocolates & Wine Bar. While speaking with the OLCC the applicant became aware of a mistake on the original application in which the box for Off-Premises Sales had not been checked. The applicant was advised by the OLCC that she needed to receive approval from the City of Canby for the amendment to the original application.

Attached is a letter from the OLCC regarding the error along with a Memorandum from Police Chief Kroeplin supporting the amendment.

RECOMMENDATION:

That the Canby City Council recommend approval to the OLCC for the amendment.

Memo

To: Mayor Thompson & Members of City Council
From: Chief Greg A. Kroeplin
CC: Kim Scheafer, General Administration
Date: April 25, 2008
Re: Liquor License Application / Puddin' River Chocolates & Confections LLC.

I have reviewed the attached liquor license application completed by the applicant(s), Teresa Sasse. In addition, Lt. Tro had previously (04-08-2008) met with the applicant, Teresa Sasse and discussed laws involving the sale of alcoholic beverages. On 04-28-2008, Lt. Tro spoke with Teresa Sasse regarding the laws involving off-premise sales.

Ms. Sasse told Lt. Tro that she would be working closely with OLCC as it relates to training for her employees on pertinent laws involving alcohol related violations and crimes.

I recommend that the Canby City Council recommend approval of this application to the Oregon Liquor Control Commission (OLCC).

April 28, 2008

Attn: Kim
City of Canby

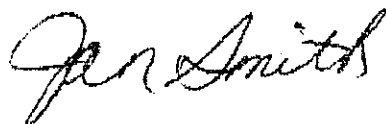
Fax # 503-266-7961

Kim,

I spoke to the applicant Teresa Sasse and attached is an amendment to the original liquor license application received on March 14, 2008. It should read that she has applied for a Limited and Off Premises Sales Liquor License.

Any questions, please feel free to contact me.

Thank you,



Jan Smith
503-872-5217
Jan.Smith@state.or.us

Pd 4/7/08 \$100.00 WK



OREGON LIQUOR CONTROL COMMISSION LIQUOR LICENSE APPLICATION

RECEIVED

APR 07 2008

CITY OF CANBY

PLEASE PRINT OR TYPE

Application is being made for:

LICENSE TYPES

☐ Full On-Premises Sales (\$402.60/yr)☐ Commercial Establishment☐ Caterer☐ Passenger Carrier☐ Other Public Location☐ Private Club☒ Limited On-Premises Sales (\$202.60/yr)☒ Off-Premises Sales (\$100/yr)☐ with Fuel Pumps☐ Brewery Public House (\$252.60)☐ Winery (\$250/yr)☐ Other: _____

ACTIONS

☐ Change Ownership☒ New Outlet☐ Greater Privilege☐ Additional Privilege☐ Other _____

Applying as:

☐ Limited Partnership☐ Corporation☒ Limited Liability Company☐ Individuals

FOR CITY AND COUNTY USE ONLY

The city council or county commission:

Canby

(name of city or county)

recommends that this license be:

Granted ☒Denied ☐By: Melody Thompson
(signature)4/16/08
(date)

Name: Melody Thompson

Title: Mayor

OLCC USE ONLY

Application Rec'd by: CP

Date: 4-3-08

90-day authority: ☐ Yes ☒ No

1. Entity or individuals applying for the license: (See SECTION 1 of the Guide)

① ~~VARA LLC~~② Puddin' River Chocolates + Confections LLC2. Trade Name (dba): Puddin' River Chocolates + Wine bar3. Business Location: 332 NW 1st Ave Canby OR 97013
(number, street, rural route) (city) (county) (state) (ZIP code)4. Business Mailing Address: Canby OR 97013
(PO box, number, street, rural route) (city) (state) (ZIP code)5. Business Numbers: 503-263-2626
(phone) (fax)6. Is the business at this location currently licensed by OLCC? ☐ Yes ☒ No

7. If yes to whom: _____ Type of License: _____

8. Former Business Name: N/A9. Will you have a manager? ☐ Yes ☒ No Name: _____
(manager must fill out an individual history form)10. What is the local governing body where your business is located? Canby
(name of city or county)11. Contact person for this application: Teresa Sasse
(name) (phone number(s))
Canby teresa@puddin-riverchocolates.com
(address) (fax number) (e-mail address)

I understand that if my answers are not true and complete, the OLCC may deny my license application.

Applicant(s) Signature(s) and Date:

① Teresa Sasse Date 3-6-08 ② _____ Date _____

③ _____ Date _____ ④ _____ Date _____

1-800-452-OLCC (6522)

www.oregon.gov/olcc

(rev. 12/07)

7

Douglas and Pamela Thomas
1427 S. Pepperwood Street
Canby, OR 97013
(503)266-8969

April 14, 2008

To Canby City Council,

This letter is to request a Street Closure Permit from the City of Canby to block off the area on Ponderosa between 13th Street and 15th Street (Area 1); in addition to an overflow contingency to an adjacent cul-de-sac area from Ponderosa along 14th Street (Area 2). The time period requested is from 12pm to 6pm on June 14th, 2008. Attached are the signatures from all of the residences along 14th Street (Area 2) to the end of the cul-de-sac that may be affected acknowledging the possibility of the overflow plan. See attachment for a graphic.

It may be helpful to know that Area 1 has no driveways or access to any of the residences. In addition, there are multiple other street accesses to the all residences in Tofte Farms and if the overflow is needed, traffic will be able to pass through the intersection of 14th Street and Ponderosa.

The reason for this request is for residence of Tofte Farms to hold a Neighborhood Block Party. The purpose of the block party is to support interaction among the residents and members of the neighborhood association.

For clarification or any questions contact Pam Thomas at (503) 939-8452 or email pamthomas@wbcable.net.

Pam Thomas



Attachment 1: Signature sheet from affected residences
Attachment 2: Diagram of proposed area for block party

RECEIVED

APR 15 2008

CITY OF CANBY

8

CITY OF CANBY STREET CLOSURE REQUEST FORM

PO Box 930, 182 N Holly, Canby, OR 97013

503.266.4021 ext. 101 Fax 503.266.7961

\$50.00

Street Closure Request Forms need to be completed and taken to the Police Department and Fire Department for approval. The back of the form needs to be completed by residents that are affected by the closure. Once completed, forms are returned to City Hall, along with the fee; they will be scheduled to go before the City Council for approval. Non-Profit events can have fee waived and be given approval from the City Administrator.

Type of event: Neighborhood Block Party Date of Event: 6/14/08

Name of Street(s) to be closed: Ponderosa between 13th and 15th

Time: From 12:00 am/pm To: 6:00 am/pm Non-Profit Event: ☒ Yes ☐ No

Event is Sponsored by: Tofte Farms Neighborhood Association

Contact Person: Pam Thomas Address: 1427 S Pepperwood St Canby

Telephone (Home): (503) 266-8969 Telephone (Work) (503) 939-8452

Pamela Thomas
Signature of Responsible Party

4/13/08
Date

[Signature]
Canby Police Department Approval Signature

04-14-08
Date

[Signature]
Canby Fire Department Approval Signature

4-14-08
Date

City Administrator/Mayor's Signature

Date

Reservation Checklist: (To be completed by staff)

1. Date application and payment received: 4/15/08

Payment Waived: ☐ Yes ☒ No

(In order to have the fee waived the following conditions must be in place:

A. The organization is non-profit 501(c)(3) and the event is open to the public without an admission charge of any kind.

B. The event is officially sponsored in part or in whole by the City of Canby.)

2. Scheduled to go before City Council on: May 7, 2008

3. Once approved by Council or City Administrator, signed copies sent to:

Public Works Supervisor: _____ (Date Sent)

Code Enforcement Officer: _____ (Date Sent)

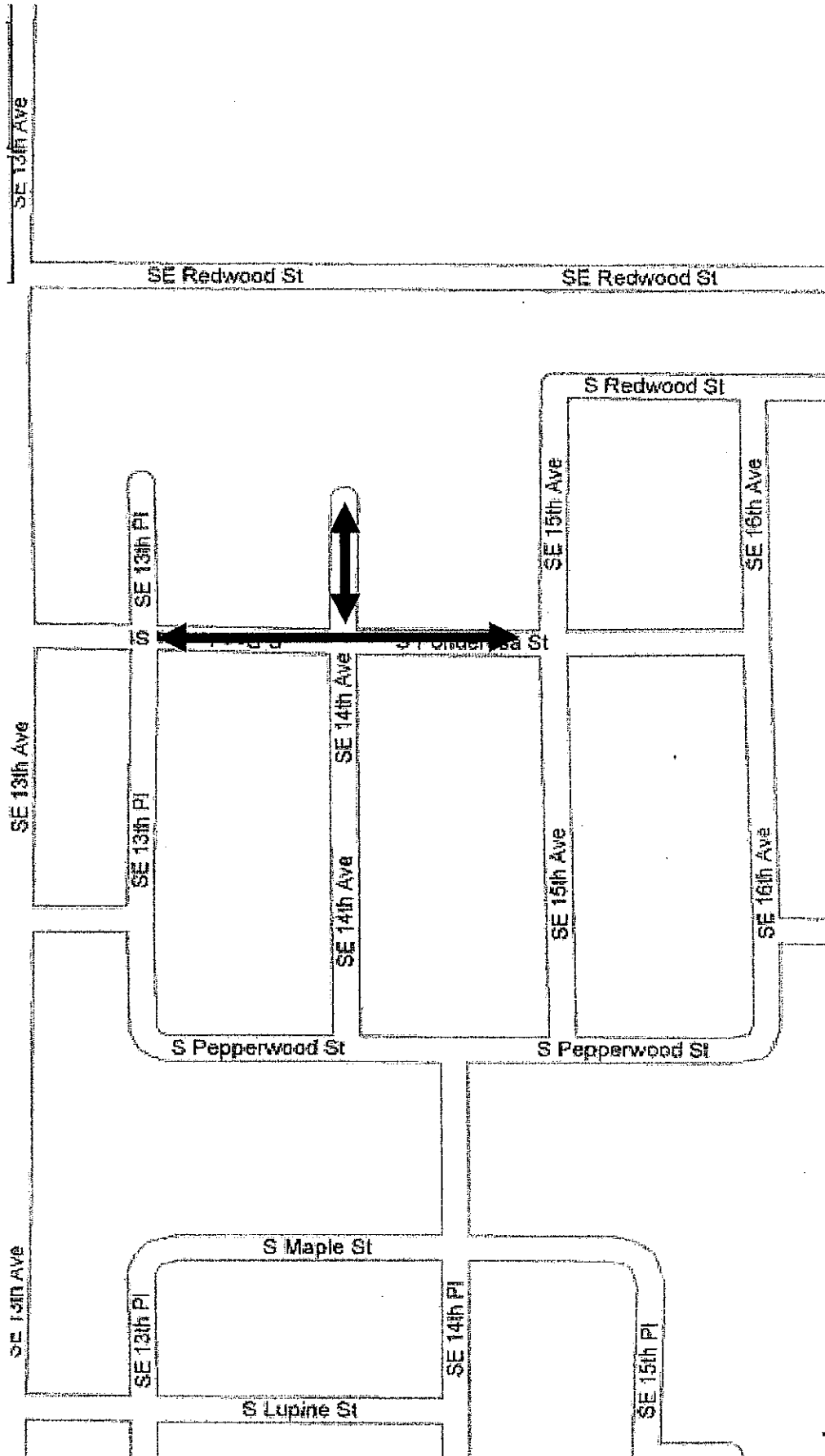
Police (Attn: Toni) Department: _____ (Date Sent)

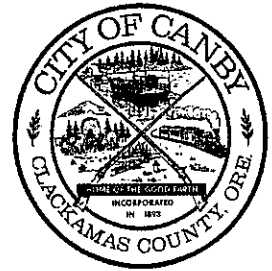
Planning Department: _____ (Date Sent)

Fire Department: _____ (Date Faxed)

Transit (Attn: Cynthia) Department: _____ (Date Sent)

4. Confirmation letter sent to applicant: _____ (Date Sent)





MEMORANDUM

TO: *Honorable Mayor Thompson and City Council* *CC*
FROM: *Catherine Comer, Economic Development Manager*
DATE: *April 23, 2008*
THROUGH: *Mark C. Adcock, City Administrator*
RE: *City Council Resolution 974*

Synopsis

This is the resolution that will authorize a loan from the Special Public Works Fund from the Oregon Economic and Community Development Department in the amount of \$2,720,000 for design, construction and extending S. Sequoia Parkway, extending S. Berg Parkway and related infrastructure in the vicinity of the Canby Pioneer Industrial Park.

Recommendation

Staff recommends that the Council approve Resolution 974.

Rationale

The Council and Agency have previously indicated their commitment to this project; and Resolution 974 formalizes the transaction with the State of Oregon.

Background

American Steel LLC has begun construction of a 190,000 s.f. manufacturing facility on S. Township Road in Canby, which will bring added tax value and over 100 jobs to the Canby Pioneer Industrial Park. The American Steel facility cannot be occupied unless roadway and utility improvements are extended approximately 1,900 lineal feet south from the current location. The approval of this resolution will provide the needed funding for this project.

Attached

Resolution 974.

RESOLUTION NO. 974

**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(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 Municipality needs funds to begin construction of the project, as determined below, but is able to provide interim financing for the Municipality's commencement of construction.
- F. The Department intends to provide long-terms, permanent financial assistance prior to the maturity date on the interim financing to allow the Municipality 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 Canby's laws for public notification.

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 \$2,720,000.00 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 \$2,720,000.00 plus an amount sufficient to pay interest accrued on the Interim Financing Loan, 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.437(3) which include:
 - (a) The revenues of the project, including special assessment revenues;
 - (b) Amounts withheld under ORS 285B.449(1);
 - (c) The general fund of the municipality; or
 - (d) Any other source.
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 City Administrator, Mark C. Adcock, 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 7th day of May, 2008

CITY OF CANBY

Melody Thompson Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder pro-tem

PROJECT DESCRIPTION

Borrower will design, construct and extend S. Sequoia Parkway, make half-street improvements to S. Township Road, and extend S. Berg Parkway and related infrastructure in the vicinity of the Pioneer Industrial Park in southeastern Canby. Borrower will perform the following work:

1. Extend S. Sequoia Parkway from its current terminus at the intersection of SE 4th Avenue by approximately 1200 lineal feet south to the intersection of S. Township Road (Stage 5) and another approximately 625 feet south of S. Township Road (Stage 6) as a paved, 50-foot wide surface configured as a three-lane collector and two bike lanes. The Borrower must also acquire right-of-way for S. Sequoia Parkway Stages 5 and 6. In connection with the construction of the paved roadway, the Borrower must also install sanitary sewer, water, storm drainage, and electrical services along the new roadway and in the public right-of-way. Borrower will provide trenching and backfill for telephone, gas, and cable services.
2. Provide half street improvements to the existing S. Township Road on the north side for approximately 750 lineal feet as a paved 25-foot wide surface with curbs that is configured - including the half-street improvements to be completed by American Steel Company on the south side as a part of its development - to include two 11-foot travel lanes, two 5-foot bike lanes, and a 13-foot striped median. In connection with construction of the paved roadway, the Borrower must also install water, storm drainage and electrical services along the roadway and in the public right-of-way. Borrower will provide trenching and backfill for telephone, gas, and cable services.
3. Extend S. Berg Parkway near Highway 99E approximately 1600 feet southward and eastward to connect with SE 13th Avenue largely as a paved 40-foot wide surface (full street construction) that is widened to a 48-foot wide surface (half street construction) in the vicinity of Highway 99E to include two travel lanes and two bike lanes. In connection with construction of the paved roadway, the Borrower must also install sanitary sewer, water, storm drainage, and electrical services along the new roadway and in the public right-of-way. Borrower will provide trenching and backfill for telephone, gas, and cable services.

Project Closeout Obligations:

1. The Borrower will submit a final Project report, on the format provided by the State, by December 31, 2010.
2. The contents of this final report will include certification by the Borrower that all conditions set forth in the Loan Agreement have been satisfied, construction has been completed, and all Project expenditures have occurred.
3. Borrower's final Project report is subject to review and approval by the State.

Canby Fire District #62 "Fill-the-Boot" Day

WHEREAS, Canby Fire District #62 has been working with the Muscular Dystrophy Association in their fight against neuromuscular disease; and

WHEREAS, "Fill-the-Boot" is an opportunity for Oregon firefighters to ask community members to drop donations into their fire boots to help local families served by MDA in the state. This year marks the 54th anniversary of the partnership between firefighters and MDA in the fight against muscle wasting diseases; and

WHEREAS, Canby Fire District #62 has spent many hours collecting money on the streets for this campaign; and

WHEREAS, firefighters, locally and nationally, are the largest contributors to the MDA, collecting more than \$25 million dollars in 2007 to help in the fight against the 43 different types of neuromuscular diseases.

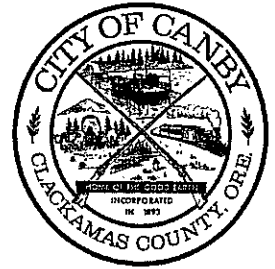
NOW, THEREFORE, I, Melody Thompson, by virtue of the authority vested in me as Mayor of the City of Canby, do hereby proclaim Saturday, July 26, 2008 as:

Canby Fire District #62 "Fill-the-Boot" Day for the City of Canby

Given unto my hand this 16th day of July, 2008.

Melody Thompson
Mayor

MEMORANDUM



TO: *Honorable Mayor Thompson and City Council*

FROM: *Catherine Comer, Economic Development Manager*

DATE: *April 28, 2008*

THROUGH: *Mark C. Adcock, City Administrator*

RE: *City Council Resolution 976*

Synopsis

This is the resolution that will authorize the Urban Renewal Agency to enter into an Option agreement to purchase the Battilega residential property located at 301 NE Third Street in Canby. Please note that the attached Purchase and Sale Agreement will not be signed at this time and is attached as reference to the terms of the Option. Should the City decide to exercise the Option, we will come back with a second resolution at that time.

Recommendation

Staff recommends that the Council approve Resolution 976.

Rationale

The Urban Renewal Agency has approved this option agreement and the terms of the purchase and sale agreement as presented. The City ownership of this property is critical in providing a connecting road between 2nd Ave. and 3rd Street and additional required parking to service the downtown in coordination with the Canby Cinema development.

Background

The City's Economic Development Department has worked for two years in planning development of an 8-plex theater to be located on 2nd Ave in downtown Canby. It has been determined that a theater will prove to be an important economic stimulus for downtown and other related Canby businesses. Parking requirements and traffic access are critical in planning for the 812 seat theater. The Urban Renewal Agency has approved this development along with a 130 stall parking lot to serve the downtown business community.

Attached

Resolution 976.

RESOLUTION NO. 976

A RESOLUTION AUTHORIZING THE CANBY URBAN RENEWAL AGENCY BOARD TO ENTER INTO AN OPTION CONTRACT TO PURCHASE REAL PROPERTY LOCATED AT 301 NE THIRD STREET, CANBY, OREGON

WHEREAS, the Canby City Council established an Urban Renewal Agency to function within the City pursuant to Ordinance 1032 passed October 6, 1999; and

WHEREAS, pursuant to the CMC 2.68.030 the City Council shall exercise all powers, duties rights granted to the Urban Renewal Agency, unless specifically granted by the City Council to the Agency to perform; and

WHEREAS, the Urban Renewal Agency is seeking to enter into an option agreement to purchase real property located at 301 NE Third Street in Canby, Oregon in connection with an Urban Renewal District redevelopment project and is requesting that the City Council authorize the execution of an Option Agreement, attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, City Council finds that it is in the City's best interest to complete the proposed redevelopment project:

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

1. The City of Canby Urban Renewal Agency Board is hereby authorized to enter into the proposed Option Agreement, attached hereto as Exhibit "A", and by this reference incorporated herein, to purchase real estate located at 301 NE Third Street in Canby, Oregon.
2. The City Administrator of the City of Canby is further authorized and directed to sign the attached Exhibit "A" on behalf of the Urban Renewal Agency Board and carry out all necessary actions to execute and record the Option Agreement.

This Resolution shall take effect on May 7, 2008.

ADOPTED this 7th day of May, 2008, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder, Pro-Tem

EXHIBIT "A"

REAL ESTATE OPTION AGREEMENT (Battilega)

This REAL ESTATE OPTION AGREEMENT ("Agreement"), dated as of the 21st day of April, 2008 ("Effective Date"), is by and between Andreina T. Battilega ("Owner"), and the Urban Renewal Agency of the City of Canby, Oregon ("Optionee").

RECITALS

A. Owner is the owner of certain real property located at 301 NE Third Avenue, Canby, Oregon, and more particularly described on **Exhibit A**, attached hereto, and by this reference incorporated herein (the "Property").

B. Optionee is the Urban Renewal Agency of the City of Canby, Oregon organized under the laws of the State of Oregon.

C. Optionee desires to obtain an option to acquire from Owner, and Owner desires to grant Optionee, an irrevocable first position option to purchase the Property on the terms and conditions set forth herein.

D. If the option granted Optionee hereunder is exercised, the parties wish to provide for the terms of the purchase pursuant to this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Owner and Optionee agree as follows:

ARTICLE I OPTION TO PURCHASE PROPERTY

1.1 Grant of Options. Owner hereby grants Optionee an irrevocable first position option (the "Option") to purchase the Property for a price and on the terms and conditions hereinafter set forth for a period commencing on the Effective Date of this Agreement and terminating at 5:00 p.m. on September 15, 2008 (the "Option Period"). The Option may be extended for an additional five (5) months (until January 15, 2009) by giving written notice of the decision to extend on or before September 14, 2008.

1.2 Exercise of Option. The Option may be exercised by Optionee at any time during the Option Period by delivery of written notice of election to exercise the Option to Owner. If Optionee fails to timely deliver such notice of exercise, this Agreement shall terminate. Immediately upon the exercise of the Option by Optionee, Owner and Optionee will enter into the attached Real Estate Purchase and Sale Agreement. The parties agree that closing of the sale will not occur until sixty (60) days from the date all contingencies to closing are removed, in accordance with the terms of Section 4 of the Real Estate Purchase and Sale Agreement, in order to allow Owner to have adequate time to move from the Property prior to the closing of the sale. Owner and Optionee may mutually agree may opt to shorten this period of time in order to allow closing to occur sooner if both parties desire to close sooner.

Initial Here:



Option Agreement - Battilega

Initial Here:



Page 1

1.3 Option Payment. Upon execution and delivery of this Agreement, Optionee will deliver to Escrow Holder (defined in **Article II**) the sum of Eleven Thousand Four Hundred Fifty and 00/100 Dollars (\$11,450.00). If Optionee wishes to extend the Option Period for an additional five (5) months to January 15, 2009, then Optionee must deliver to Escrow Holder a second sum of Eleven Thousand Four Hundred Fifty and 00/100 Dollars (\$11,450.00) on or before September 14, 2008. All Option Payments made shall be applied to the Purchase Price in the event the Option is exercised on or before January 15, 2009. In the event the Optionee elects not to exercise the Option, the Option Payment(s) will be disposed of by Escrow Holder in accordance with **Section 1.6**.

1.4 Termination. At any time during the Option Period, Optionee may give written notice to Owner that Optionee elects to terminate this Agreement. In such event, this Agreement shall terminate and neither party shall have any further liability hereunder, except as otherwise provided in **Sections 1.6** and **1.7**.

1.5 Exercise. At any time during the Option Period, Optionee may give written notice to Owner that Optionee elects to exercise the Option. In such event, the Option Payment(s) shall be fully credited to the Purchase Price at closing, as described below.

1.6 Disposition of Option Payment. Within ten (10) days of the Effective Date, Optionee and Owner shall order a preliminary title policy from Escrow Holder showing that Owner is the sole Owner of the Property and the current condition of title. If Optionee and Owner cannot agree, within thirty (30) days from receipt of such preliminary title report, which exceptions to title must be removed and which exceptions will be permitted to remain upon the sale of the Property, then this Agreement will terminate without liability to either party. If the preliminary title report is accepted by Owner and Optionee, Owner will order an appraisal to confirm that the Purchase Price set forth in **Section 2.1** is within the fair market value range. As soon as appraisal confirmation is received by Owner that the Purchase Price is within fair market value range, the Option Payment will be released to Owner. In the event the Option is exercised, any Option Payments will be credited toward the Purchase Price. In the event this Agreement is terminated due to a breach of this Agreement by Owner, any Option Payments will be returned to Optionee. "

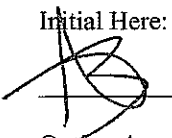
1.7 Breaches by Owner. In the event Owner fails to abide by the terms of this Option, Optionee shall be entitled to sue for specific performance of this Agreement or to any other remedy available at law or in equity, including but not limited to return of any Option Payment(s).

ARTICLE II PURCHASE PRICE

2.1 Purchase Price. If Optionee exercises the Option, the purchase price for the Property ("Purchase Price") shall be Two Hundred Twenty-Nine Thousand and 00/100 Dollars (\$229,000.00), subject to credit for any Option Payment(s) already made. The Purchase Price shall be paid by Optionee in cash or immediately available funds at the closing. Optionee shall be granted access to the Property to conduct an appraisal to verify the Purchase Price and, as stated above, shall release the Option Payment upon receipt of the appraisal confirming the Purchase Price is within a fair market value range. The Appraisal shall be completed within sixty (60) days of the Effective Date of this Agreement.

2.2 Escrow Holder. Chicago Title Insurance Company has been designated as escrow holder hereunder by mutual agreement of Owner and Optionee ("Escrow Holder").

Initial Here:



Option Agreement - Battilana

Initial Here:

Page 2

22

ARTICLE III
PURCHASE AND SALE AGREEMENT & TITLE REPORT

If the Option is exercised, Owner and Optionee shall enter into a Real Estate Purchase and Sale Agreement for the Property in the form attached hereto as **Exhibit B** and incorporated by reference herein. If Owner does not sign the Purchase and Sale Agreement within five (5) days of the date the Option is exercised, Owner shall be considered in breach of this Agreement and the Option Payment(s) will be returned to Optionee by Escrow Holder or Optionee.

ARTICLE IV
MISCELLANEOUS

4.1 Brokers and Finders. Tim Stuart of Stuart Realty Group is the only broker involved in this transaction. If the Option is exercised and the sale of the Property closes to Optionee, Optionee shall be responsible to pay the brokerage commission of Four Thousand Five Hundred Eighty and 00/100 Dollars (\$4,580.00) to the foregoing broker.

4.2 Notices. All notices, demands, requests, consents and approvals which may, or are required to, be given by any party to any other party hereunder shall be in writing and shall be deemed to have been duly given if delivered personally, sent by a nationally recognized overnight delivery service, or if mailed or deposited in the United States mail and sent by certified mail, return receipt requested, postage prepaid to:

If to Optionee:
The Urban Renewal Agency for City of Canby
182 North Holly Street
PO Box 930
Canby, OR 97013
Attn: Catherine Comer

If to Owner:
Andreina T. Battilega
301 NE Third Avenue
Canby, OR 97013

or to such other addresses as either party hereto may from time to time designate in writing and deliver in a like manner. All notices that are mailed via certified mail shall be deemed received four business days after mailing. All other notices shall be deemed served upon actual receipt or refusal to accept delivery.

4.3 Amendment & Waiver. No modification, termination or amendment of this Agreement may be made except by written agreement of the parties hereto. No failure by Owner or Optionee to insist upon the strict performance of any covenant, duty, agreement, or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or any other covenant, agreement, term or condition. No waiver shall affect or alter this Agreement, and each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other than existing or subsequent breaches thereof. All the terms, provisions, and conditions of this Agreement shall inure to the benefit of and be enforceable by Owner's or Optionee's respective heirs, successors and assigns.

4.4 Captions. The captions of this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement.

Initial Here:



Option Agreement - Battilega

Initial Here:

Page 3

4.5 Merger of Prior Agreements. This Agreement and the exhibits hereto constitute the entire agreement between the parties with respect to the purchase and sale of the Property, and supersede all prior and contemporaneous agreements and understandings between the parties hereto relating to the subject matter hereof.

4.6 No Joint Venture. It is not intended by this Agreement to, and nothing contained in this Agreement shall create any partnership, joint venture or other arrangement between Optionee and Owner. No term or provision of this Agreement is intended to be, or shall be, for the benefit of any person, firm, organization or corporation not a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

4.7 Governing Law & Time. This Agreement and the right of the parties hereto shall be governed by and construed in accordance with the laws of the State of Oregon, with jurisdiction in Clackamas County. Time is of the essence of this Agreement.

4.8 Attorney Fees. In the event of litigation concerning this Agreement, the losing party shall be required to pay the reasonable attorney fees and costs of the prevailing party, in the amount provided by the judge before whom the matter is heard.

4.9 Authority. The parties signing below represent and warrant they have the requisite authority to bind the entities on whose behalf they are signing.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

OWNER:

By: 

Print Name: Andreina T. Battilega

Andreina Battilega

OPTIONEE:

THE URBAN RENEWAL AGENCY OF THE CITY
OF CANBY, OREGON

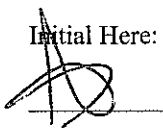
By: _____

Print Name: _____

As Its: _____

K:\1828824\00012\18009_BAJ\18009A238P==Battilega Option Agmt FINAL 4-18-08.doc 4/15/08 11:06 AM

Initial Here:



Option Agreement - Battilega

Initial Here:

Page 4

24

EXHIBIT A
Legal Description

Section 33 Township 3S Range 1E
Quarter DB Tax Lot 02500

Parcel Number: 00795358
Reference Parcel: 31E33DB02500
Mail Address: 301 NE 3rd Avenue
Canby, Oregon 97013

Initial Here:

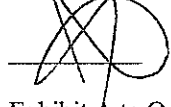
A handwritten signature, possibly "AD", is written over a horizontal line.

Exhibit A to Option Agreement - Battileca

Initial Here:

A horizontal line for initials.

25

EXHIBIT B
Real Estate Purchase and Sale Agreement

Initial Here:

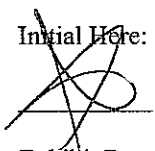
A handwritten signature, possibly "Rattilega", is written over a horizontal line.

Exhibit B to Option Agreement - Rattilega

Initial Here:

26

REAL ESTATE PURCHASE AND SALE AGREEMENT
(Battilega Property)

THIS REAL ESTATE PURCHASE AND SALE AGREEMENT (the "Agreement") is entered into by and between the Urban Renewal Agency of the City of Canby, Oregon ("Purchaser") and Andreina T. Battilega ("Seller"), as of the _____ day of _____, 2008 (the "Effective Date").

SECTION 1. PURCHASE AND SALE

1.1 Purchase and Sale.

Seller hereby represents and warrants that Seller is the current sole and exclusive owner of that real property legally described in **Exhibit A**, attached hereto and incorporated by reference herein (the "Property") and has the full right and authority to convey the Property free and clear of any liens, claims or encumbrances. Seller further represents that the Property is occupied by Seller, and is not subject to any lease, other agreement or dispute. The Property is being conveyed together with all rights, easements and appurtenances pertaining to such real property including, but not limited to, water rights, mineral rights, development rights, contract rights and permits relating to the Property, and all improvements located thereon.

1.2 Survival.

The provisions included in this Agreement shall survive Closing (as defined in **Section 7**) and shall be fully effective thereafter.

SECTION 2. PURCHASE PRICE AND ALLOCATIONS

2.1 Purchase Price.

The purchase price for the Property (the "Purchase Price") shall be TWO HUNDRED TWENTY-NINE THOUSAND DOLLARS (\$229,000).

2.2 Payment of Purchase Price.

The Purchase Price shall be payable to Seller in cash or immediately available funds at Closing.

2.3 Escrow and Earnest Money.

The Earnest Money, which shall be credited to the Purchase Price, shall consist of the Option Fees paid pursuant to the Option Agreement entered into between the parties. Within five (5) days of Purchaser's receipt of Seller's signature on this Agreement, Purchaser shall open an escrow account with, and order a preliminary title commitment from, Chicago Title Insurance Company (the "Title Company") and deliver a copy of this Agreement to the Title Company.

Initial Here:

Initial Here:

SECTION 3. TITLE MATTERS

3.1 Title Review.

3.1.1. Preliminary Commitment. Upon opening of the escrow account, Purchaser and Seller will order, at Seller's cost and expense, a preliminary commitment (the "Preliminary Commitment") for the Title Policy, as described in **Section 3.2**, showing the status of title of the Property, showing all exceptions and conditions affecting the Property which would appear in the Title Policy, and committing the Title Company to issue such a Title Policy to Purchaser. Seller will also cause the Title Company to concurrently deliver to Purchaser complete and legible copies of all instruments referred to in the Preliminary Commitment as conditions or exceptions to the title (the "Exception Documents"). Seller hereby authorizes and directs the Title Company to furnish to Purchaser the foregoing items.

3.1.2. Purchaser's Review. Purchaser shall have ten (10) days after receipt of the Preliminary Commitment and Exception Documents to notify Seller, in writing, of its approval and/or disapproval of each exception shown in the Preliminary Commitment. Purchaser's failure to notify Seller within the above referenced time period shall be deemed Purchaser's disapproval of the Preliminary Commitment and Exception Documents. Any exception that Purchaser has approved, in writing, shall become a Permitted Exception.

3.1.3. Seller's Response. If Purchaser does notify Seller of an objection to any exception, then Seller shall have up to ten (10) days after receipt of Purchaser's notice to notify Purchaser, in writing, of its agreement to remove any of the disapproved exceptions. Seller's failure to notify Purchaser within this time period as to whether or not Seller will take the action required to remove a particular exception shall constitute Seller's agreement to remove that exception prior to Closing. Seller shall thereafter remove, by Closing, the exceptions it has agreed to remove, either by express agreement or by the foregoing failure to respond.

3.1.4. Purchaser's Rights. If Seller declines to remove all or some of the exceptions disapproved by Purchaser, Purchaser shall have up to ten (10) days to notify Seller, in writing, whether it will, in its sole discretion, waive such objections or terminate this Agreement. Purchaser's failure to give such notice shall constitute Purchaser's election to terminate this Agreement. In the event Purchaser gives written notice of its election to waive the exceptions that Seller has declined to cure, then those initially disapproved but subsequently accepted exceptions shall become Permitted Exceptions. If Purchaser elects to terminate this Agreement, Seller shall immediately return the Earnest Money to Purchaser. Purchaser shall pay any cancellation fee or other cost of the Title Company.

3.1.5. Updated Title Matters. The foregoing notice and response procedures shall be repeated for any title exceptions first appearing after Purchaser's receipt of the Preliminary Commitment, except that if the time period for delivery of any notice extends beyond the Closing Date, such notice and all subsequent notices shall be delivered on or before the Closing Date.

Initial Here:

Initial Here:

3.2 Title Policy.

3.2.1. Delivery of Policy. At Closing, Seller will, at its sole cost and expense, cause the Title Company to issue to Purchaser an ALTA standard coverage owner's policy of title insurance, in the amount of the Purchase Price, insuring Purchaser against loss or damage arising from any defects in title to the Property other than the Permitted Exceptions (the "Title Policy"). The Title Policy shall contain such endorsements as shall be reasonably requested by Purchaser. If Purchaser elects to obtain an ALTA extended coverage owner's policy, Purchaser shall pay the difference in the premium between the standard coverage policy and the extended coverage policy, and Seller shall cooperate in order to allow the extended coverage policy to be issued.

3.2.2. Failure to Deliver Policy. If, at Closing, the Title Company will not issue the Title Policy as provided above, Purchaser may either proceed to close despite the lack of required insurance, or terminate this Agreement. If Purchaser terminates this Agreement because of the failure of the title Company to issue the Title Policy as provided above, Seller shall immediately return the Earnest Money to Purchaser. Seller shall pay any cancellation fee or other cost of the Title Company, and this Agreement shall terminate and all rights and obligations of the parties shall terminate unless such failure is due to a default by Seller and in that case the remedies of **Section 9.1** shall also apply.

SECTION 4. FEASIBILITY CONTINGENCY/DUE DILIGENCE

4.1 Feasibility Contingency.

Purchaser's obligation to purchase the Property is contingent upon Purchaser's satisfaction, in its sole and absolute discretion, with the condition of the Property. Purchaser shall notify Seller, in writing, within ninety (90) days following execution of this Agreement of its waiver of this contingency ("Due Diligence Period"). If Purchaser determines that it will not purchase the Property prior to the expiration of the Due Diligence Period and so notifies Seller, in writing, within the required timeframe, Seller shall be entitled to keep the Option Fees/Earnest Money. Purchaser shall pay any cancellation fee or other cost of the Title Company, and this Agreement shall terminate and all rights and obligations of the parties, except Purchaser's indemnity obligations under **Section 4.2** of this Agreement, shall terminate. Due Diligence shall include, but is not limited to, all of the following:

4.1.1. Purchaser's Inspection. Throughout the Due Diligence Period, Purchaser and its agents, employees and designees shall have reasonable access to the Property and to the persons and information described herein for the purpose of conducting its Due Diligence and determining the feasibility of the use of the Property for Purchaser's intended use. Purchaser shall contact Seller at (503) 793-1784 in order to arrange for access to the Property. Purchaser shall have the right to enter the Property to investigate and test the Property. Purchaser may conduct such investigations and tests on the Property as it determines are appropriate including, but not limited to, surveys, soil and groundwater samples and tests (including any and all actions required to complete a thorough Phase I and, at Purchaser's sole option, Phase II Environmental Site Assessment), wetland studies, demolition bid, engineering studies, and environmental samples and tests. Purchaser shall have the right to inspect and study Seller's records and

Initial Here:

Initial Here:

information relating to the Property including, but not limited to, the items described on **Exhibit B** hereto (collectively, the "Property Information"). Seller will provide such information as soon as possible after execution of this Agreement. Purchaser shall have the right, with reasonable notice; to receive copies of any such documents and records. Purchaser shall also have the right to contact the Seller, government agencies, environmental groups, prior owners, and other third parties who may have information about the past or present condition of the Property. Purchaser shall also have the right to have structural inspections done to the building on the Property if it so elects.

4.1.2. Final Approval. Following completion of Due Diligence, but within the Due Diligence Period, Purchaser's governing board must approve or disapprove the purchase of the Property. If the Board does not approve the purchase of the Property, this Agreement will terminate without liability to either party and Purchaser shall pay any Title Company fees due as a result of the termination.

4.2 Purchaser's Indemnification of Seller.

Seller agrees to cooperate with Purchaser in such investigations, studies and tests, and to provide any information in Seller's possession requested concerning the Property and its prior uses. Purchaser will, however, perform all investigations, studies, and tests at Purchaser's own expense. In addition, Purchaser will indemnify, defend and hold Seller harmless from any costs or claims for personal injury, property damage or materialman's/mechanic's liens caused by Purchaser's entry onto the Property to conduct such inspections, studies and tests. This indemnity shall not apply to any costs or claims (i) resulting from the acts or omissions of Seller, or (ii) resulting from the manufacture, generation, presence, release, disposal or transportation of Hazardous Substances on, to, or from the Property unless caused by Purchaser or its contractors or employees. Purchaser shall not be liable for an exacerbation of any pre-existing environmental condition that may result from environmental testing unless Purchaser has been advised of the presence of such materials and has failed to take reasonable precautions to avoid such exacerbation.

SECTION 5. PRE-CLOSING OBLIGATIONS

5.1 Seller's Closing Obligations.

At all times from the date of this Agreement to the Closing, Seller will:

5.1.1. Make all payments due under, and comply with each and every covenant and obligation imposed upon the owner of the Property by, promissory notes, mortgages, deeds of trust, ground or other leases and any other agreements affecting the Property, or secured by an interest in the Property or any part thereof, and will take any and all action as may be necessary to avoid any default under such agreements;

5.1.2. Not negotiate, discuss or enter into, or cause to be entered into, any written or oral option, sale agreement, lease, service contract or other contract or agreement regarding or pertaining to the Property or any portion thereof. Seller will also take all action required to terminate any existing leases, contracts or agreements pertaining to the Property prior to Closing

Initial Here:

Initial Here:

so that the Property shall be transferred to Purchaser free and clear of any encumbrances, except Permitted Encumbrances;

5.1.3. Pay for any materials, supplies or work provided or ordered for the Property by Seller or Seller's agents prior to the Closing and for which a labor, materialman's or mechanic's lien may be claimed under applicable law and, if required by the Title Company, provide the Title Company with such indemnifications or security as it may require to insure title to the Property at the Closing without exception for any unrecorded labor, materialman's or mechanic's claim of lien.

5.1.4. Reasonably cooperate with Purchaser with respect to all applications relating to the Property and the development of the Property for Purchaser's intended use.

SECTION 6. WARRANTIES OF SELLER

6.1 Warranties.

Seller hereby represents and warrants to Purchaser that Seller is the sole legal owner of the Property with good title thereto and full authority to convey the same to Buyer. For the purposes of inducing Purchaser to consummate the transactions contemplated hereby, in addition to the warranties contained in the Deed for the Property, Seller represents and warrants to Purchaser, as of the date hereof and, except as otherwise set forth herein, as of the Closing Date, all of the following:

6.1.1. Seller has full power, authority and legal right to execute, deliver and perform this Agreement, and all other documents and certificates contemplated hereby; Seller has duly authorized the execution, delivery and performance thereof; and has authorized the person executing this Agreement to do so;

6.1.2. There are no actions, suits, proceedings, orders or investigations pending or, to the best of Seller's knowledge, threatened against or affecting Seller which might adversely affect Seller's performance under this Agreement or the consummation of the transactions contemplated hereby;

6.1.3. Except as expressly provided herein, there is not pending or, to the best of Seller's knowledge, threatened (i) condemnation or similar proceedings with respect to the Property or any part thereof, or (ii) public improvements in, about or outside the Property which might result in the imposition of any assessment, lien or charge against Seller, the Property or any owner of the Property;

6.1.4. None of the following has occurred with respect to the Property or Seller: (i) appointment of a receiver, liquidator, or trustee; (ii) institution of any proceeding for dissolution or liquidation; (iii) filing or any petition for bankruptcy, or action toward reorganization; or (iv) notice of default or forfeiture;

6.1.5. All taxes and assessments and other governmental or quasi-governmental levies of any kind which are due for payment prior to the date hereof, the non-payment of which

Initial Here:

Initial Here:

would in any way affect the Property or any part thereof, have been paid, or shall be paid by Seller, prior to or at the Closing Date, together with all interest and penalties thereon;

6.1.6. There are no unpaid bills, claims, or liens pending or contemplated by mechanics, materialmen, surveyors, or others, recorded or unrecorded, in connection with the Property;

6.1.7. The Property is not affected by any special assessment, whether or not a lien thereon, which has not or will not be paid in full by Seller prior to the Closing Date, nor does Seller know of any pending or contemplated assessments or similar charges which will affect the Property;

6.1.8. Neither the Property nor any portion thereof is located in a flood plain or special hazard area as designated by any federal, state or local governmental body or agency;

6.1.9. Nothing prohibits Seller from entering into this Agreement with Purchaser. No other person or entity has an interest in the Property, except as set forth in the Permitted Exceptions;

6.1.10. The Property Information provided by Seller to Purchaser is complete, accurate, true and correct and does not fail to state any fact without which the Property Information would be misleading; and

6.1.11. To the best of Seller's knowledge, except as disclosed in the Property Information provided to Purchaser, (i) there has been no generation, treatment, storage, transfer, disposal or release of Hazardous Substances on the Property (including grease traps which have not been properly cleaned and materials not properly disposed of); (ii) there are no aboveground or underground storage tanks on the Property nor have any aboveground or underground storage tanks been removed from the Property; and (iii) Seller is not aware of any facts which would lead it to believe that there are any Hazardous Substances on the Property. For purposes of this Agreement, the term Hazardous Substances shall mean: "hazardous substance" as defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"); "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 ("RCRA"), as amended; hazardous wastes, hazardous materials, hazardous substances, toxic waste, toxic materials, or toxic substances as defined in state or federal statutes or regulations; asbestos-containing materials; polychlorinated biphenyls; radioactive materials; chemicals known to cause cancer or reproductive toxicity; petroleum products, distillates or fractions; any substance the presence of which is prohibited by statute or regulation; and any substance for which any statute or regulation requires a permit or special handling in its use, collection, storage, treatment or disposal.

6.2 Purchaser's Warranties.

Purchaser represents and warrants to Seller, as of the date hereof and as of the Closing Date, as follows: Purchaser is an urban renewal agency of the State of Oregon, duly organized and validly existing under the laws of the State of Oregon, and once this Agreement is approved at a meeting of its City Council, as provided in **Section 4.1.2**, this Agreement will become a

Initial Here:

Initial Here:

legally binding commitment to purchase the Property. Until that approval is obtained, however, this Agreement may be terminated by Purchaser without liability, except to repair any damage done to Seller's property caused by Purchaser's Due Diligence and to pay the Title Company cancellation fee, if required.

6.3 Survival of Warranties.

The warranties contained in this **Section 6** shall survive the Closing and shall be fully effective thereafter. If Seller breaches any warranty, Purchaser shall have the rights and may exercise, at its option, any of the remedies, provided under **Section 9.1** of this Agreement.

SECTION 7. CLOSING

7.1 Closing Date.

Closing of the sale of the Property from Seller to Purchaser shall occur within thirty (30) days following the Due Diligence Period ("Closing" or "Closing Date"), unless this date shall be mutually extended by written amendment to this Agreement, signed by both Purchaser and Seller. Closing shall be held in the offices of the Title Company, or at such other place as may be agreed upon in writing by Seller and Purchaser. Each party hereto agrees to execute and deliver to the Title Company such escrow instructions as may be necessary to implement and coordinate the Closing as set forth in this Agreement.

7.2 Seller's Closing Obligations.

At Closing, Seller will:

7.2.1. execute, acknowledge and deliver a Statutory Warranty Deed to the Property, subject only to the Permitted Exceptions;

7.2.2. execute, acknowledge and deliver such other agreements, documents and instruments as may be necessary to transfer, convey and assign the Property to Purchaser;

7.2.3. deliver to Purchaser, pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, an affidavit stating that Seller is not a foreign person and providing Seller's United States taxpayer identification number; and

7.2.4. deliver to Purchaser such other instruments or documents as may be required pursuant to the provisions hereof or as mutually agreed by counsel for Seller and Purchaser to be necessary to fully consummate the transaction contemplated hereby.

7.3 Purchaser's Closing Obligations.

At the Closing, Purchaser will:

7.3.1. deliver to Seller cash or funds readily available in the amount of the Purchase Price, less any Earnest Money already paid to Seller; and

Initial Here:

Purchase and Sale Agreement - Botticelli

Initial Here:

Page 7



33

7.3.2. deliver to Seller such other instruments or documents as may be required pursuant to the terms hereof or mutually agreed by counsel for Seller and Purchaser to be necessary to fully consummate the transaction contemplated hereby.

7.4 Allocation of Closing Expenses.

The costs of closing the transaction shall be allocated between Seller and Purchaser as follows:

7.4.1. Seller will pay:

- (a) the cost of the owner's standard Title Policy required by **Section 3.2**;
- (b) the cost of providing to Purchaser all information to be reviewed and approved by Purchaser pursuant **Section 4.2** of this Agreement;
- (c) one-half (1/2) of the escrow fees of the Title Company;
- (d) any applicable real estate excise taxes, transfer taxes and any other taxes and charges with respect to the transaction;
- (e) the costs of clearing title and obtaining any other item to be delivered to Purchaser at Closing;
- (f) any assessments against the Property existing as of Closing, whether due and payable before or after such date;
- (g) all property taxes, interest and penalties necessary to bring the Property out of any "open space", "forest land", "historic", "exempt" or other designation and to eliminate all liability for such charges and to eliminate any restrictions on the use of the Property due to its tax designation; and
- (h) all property taxes due in any tax year prior to the year of Closing.

7.4.2. Purchaser will pay:

- (a) one-half (1/2) of the escrow fees of the Title Company;
- (b) the cost of any extended coverage that exceeds the cost of the Owner's standard coverage and all endorsements, as requested by Purchaser; and
- (c) the cost of recording the Statutory Warranty Deed and any other documents that Purchaser may choose to record.

Initial Here:



Purchase and Sale Agreement - Battilega

Initial Here:



Page 8

7.4.3. All other expenses incurred by Seller or Purchaser with respect to Closing, including, but not limited to, attorneys' fees, shall be borne and paid exclusively by the party incurring the same unless the parties hereto expressly agree in writing to the allocation of part or all of such expenses to one of the parties.

7.5 Prorations.

The following items shall be adjusted or prorated between Seller and Purchaser at the Closing, as of the Closing Date:

7.5.1. Property taxes and assessments for the then current tax year relating to the Property.

7.6 Right to Possession.

At Closing, Purchaser shall have full and unrestricted right to possession of the Property, subject only to the Permitted Exceptions, unless Seller elects to enter into a lease back with Purchaser for a period not to exceed sixty (60) days following Closing, as more particularly described in **Section 10.14** below.

7.7 Risk of Loss.

Risk of loss or damage to the Property by condemnation, eminent domain, foreclosure or similar proceedings (or deed in lieu thereof), or by fire or any other casualty, from the date hereof through Closing will be on Seller and thereafter will be on Purchaser. Seller will immediately notify Purchaser in writing of any such loss or damage. Purchaser shall notify Seller, in writing, within fourteen (14) days of receiving such notice whether Purchaser shall proceed to Closing. Purchaser's failure to notify Seller that it will proceed to Closing shall constitute notice of disapproval of the loss or damage. If Purchaser proceeds to Closing, Seller shall assign to Purchaser any insurance proceeds or condemnation awards, if any, and all causes of action and rights against such condemning authority, insurer or lender. If Purchaser disapproves this loss or damage, the Seller shall immediately return the Earnest Money to Purchaser, Seller shall pay any cancellation fee or other cost of the Title Company, and this Agreement shall terminate and all rights and obligations of the parties shall terminate.

SECTION 8. INDEMNIFICATION

8.1 Brokerage Commissions.

Seller and Purchaser warrant that the only broker involved in this transaction is Tim Stuart of Stuart Realty Group, and his commission shall be paid by Purchaser.

8.2 Warranties.

8.2.1. Seller agrees to indemnify, defend and hold Purchaser, its successors and assigns, harmless from any and all liabilities, claims, damages, demands, costs, fines, penalties and expenses of any kind or nature (except those items which by this Agreement specifically become the obligation of Purchaser), including, without limitation, attorneys' fees and

Initial Here:

Initial Here:

expenditures for investigation and remediation (collectively "Claims"), by any other party or parties (including a governmental entity) which may be imposed upon or incurred by Purchaser, its successors or assigns arising out of or in connection with the breach of Seller's warranties under this Agreement.

SECTION 9. TERMINATION AND REMEDIES

9.1 Seller's Defaults.

9.1.1. Seller's Defaults. Seller shall be deemed to be in default hereunder in the event Seller fails, for a reason other than Purchaser's default hereunder, to meet, comply with, or perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in this Agreement, or there shall have occurred a breach of any representation or warranty made by Seller.

9.1.2. Purchaser's Remedies. In the event of default by Seller, Purchaser may pursue any remedy available at law or equity, including:

- (a) Enforcing specific performance of this Agreement;
- (b) Bringing suit for damages.

In addition, and without prejudice to the foregoing remedies, Purchaser may, if default occurs prior to Closing, terminate this Agreement.

9.1.3. Return of Earnest Money. Upon termination of this Agreement pursuant to **Section 9.1.2** following a Seller default, the Earnest Money shall be promptly returned to Purchaser by Seller upon receipt of written notice from Purchaser that Seller has defaulted under this Agreement.

9.2 Purchaser's Defaults.

9.2.1. Purchaser's Defaults. Purchaser shall be in default hereunder in the event Purchaser fails, for a reason other than Seller's default hereunder, without legal excuse to complete the purchase of the Property or to meet, comply with, or perform any covenant, agreement or obligation on its part required within the time limits and in the manner required in this Agreement, or there shall have occurred a breach of any representation or warranty made by Purchaser.

9.2.2. Seller's Remedies. In the event of default by Purchaser, Seller's sole and exclusive remedy shall be to retain the Earnest Money, it being agreed between Purchaser and Seller that such sum shall be liquidated damages for a default of Purchaser hereunder because of the difficulty, inconvenience and uncertainty of ascertaining actual damages for such default. Receipt of the Earnest Money (as paid pursuant to the Option Agreement) shall constitute a full waiver of any other remedies Seller may have under this Agreement, or at law or equity.

Initial Here:

Initial Here:



36

SECTION 10. MISCELLANEOUS

10.1 Assignment of Contract.

Purchaser may assign its rights and obligations under this Agreement. Purchaser must notify Seller of any such assignment prior to the Closing and the assignee shall for all purposes be regarded as Purchaser under this Agreement.

10.2 Entire Agreement; Modification.

This Agreement sets forth the entire understanding between the parties with respect to the transactions contemplated herein and supersedes all prior or contemporaneous agreements, oral or written. Neither this Agreement nor any provision hereof may be waived or amended except by an instrument in writing signed by both parties.

10.3 Time of Essence.

Time is of the essence of this Agreement.

10.4 Binding Effect.

This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

10.5 Notices.

All notices to either party must be in writing and either (i) delivered in person; (ii) by United States certified mail, postage prepaid; (iii) by courier service, postage prepaid; or (iv) by facsimile transmission with confirmed receipt and sent to the address (or facsimile number) of such party as set forth below, or such other address (or facsimile number) as either party may from time to time designate by written notice to the other.

If to Purchaser:

The Urban Renewal Agency
for City of Canby
182 North Holly Street
PO Box 930
Canby, OR 97013
Attn: Catherine Comer

If to Seller:

Andreina T. Battilega
301 NE Third Avenue
Canby, OR 97013

10.6 Interpretation.

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words of a singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.

Initial Here:

Purchase and Sale Agreement - Battilega

Initial Here:

Page 11

37

10.7 Captions.

The captions used in this Agreement are for convenience only and shall not be deemed to construe or to limit the meaning of the language of this Agreement.

10.8 Severability.

If one or more of the provisions of this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions or any other application thereof shall in no way be affected or impaired.

10.9 Applicable Law.

This Agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Venue shall be in Clackamas County.

10.10 Exhibits.

The following exhibits are incorporated into and made a part of this Agreement as if set forth fully herein:

Exhibit A	Legal Description of Property
Exhibit B	Books and Records Required by Section 4.1.1

10.11 Attorney Fees.

If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights or obligations hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review in addition to all other amounts provided by law. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review. Whenever this Agreement requires a party to defend the other, it is agreed that such defense shall be by legal counsel reasonably acceptable to the party being defended.

10.12 Waiver.

No waiver of any breach of any covenant or provision contained herein shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of the time of performance of any other obligation or act.

10.13 Sole Ownership.

Seller warrants that she is sole owner of the Property and has full authority to sell the Property and to enter into this Agreement.

Initial Here:

Initial Here:

10.14 Relocation Assistance.

Seller acknowledges that this is a voluntary sale of her Property and this sale is not being made under the threat of condemnation. In consideration of the sale, however, Purchaser will provide Seller with certain relocation benefits in accordance with Oregon law. Seller has agreed that a lump sum payment of One Thousand Five Hundred Dollars (\$1,500) to be paid at Closing shall constitute reasonable relocation expenses. In addition to the foregoing, at or before Closing, Seller shall advise Purchaser if she wishes to remain in the Property for a period not to exceed sixty (60) days while she finds a replacement property. If Seller elects to remain in the Property, she will enter into a Stevens-Ness standard residential lease form, and she shall be allowed to remain in the Property rent free for a period of two (2) months as an additional relocation benefit. Any holdover beyond the two months will be covered by the terms of the lease.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

SELLER:

Andreina T. Battilega

Address:

Phone:

Facsimile:

Email:

PURCHASER:

**The Urban Renewal Agency of the City of
Canby, Oregon**

By: _____

Name: _____

As Its: _____

Address:

Phone:

Facsimile:

Email:

K:\1828824\00012\18009_BAJ\18009A238Q==Battilega PSA FINAL 4-18-08.doc 4/15/08 11:21 AM

Initial Here:

Purchase and Sale Agreement Battilega

Initial Here:

Page 13



39

EXHIBIT A
LEGAL DESCRIPTION

Section 33 Township 3S Range 1E
Quarter DB Tax Lot 02500

Parcel Number: 00795358
Reference Parcel: 31E33DB02500
Mail Address: 301 NE 3rd Avenue
Canby, Oregon 97013

Initial Here:

Exhibit A to Purchase and Sale Agreement - Battilega

Initial Here:



EXHIBIT B

BOOKS AND RECORDS REQUIRED BY SECTION 4.1.2.

Statements of all real and personal property taxes (including special assessments or other charges affecting the Property), along with notices of any proposed tax assessments with respect to the Property or any portion thereof for the two (2) most recent tax years;

Copies of any boundary or other surveys, wetland studies or delineations, architectural or structural reports, environmental site assessments, or soil studies with respect to the Property;

Copies of any notices of violation, administrative orders or any other enforcement action or lawsuit taken against the Seller and concerning the Property or improvements;

Copies of records concerning the past or present release, generation, disposal, transportation or existence of Hazardous Materials on the Property, and any environmental studies relating to the Property;

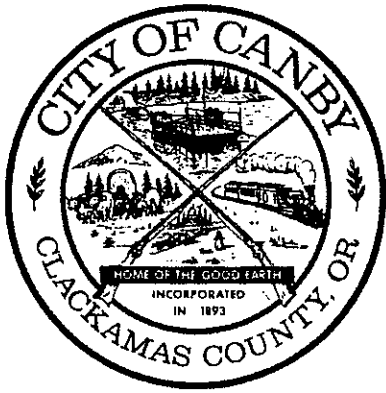
Copies of records of or information concerning any enforcement actions pursuant to federal, state and/or local environmental legislation against neighboring property owners of which Seller has knowledge; and

Any other documents or records with respect to the operation of the Property which may be reasonably requested by Purchaser.

Initial Here:

Initial Here:

41



City of Canby

Office of the City Attorney

April 23, 2008

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney

Re: Resolution No. 977 – Resolution extending sewer service to Bugni property

Attached is Resolution No. 977. It authorizes the City to make an extra-territorial extension of sewer service to Omni and Janice Bugni located at 470 S. Walnut Street. As you know, the City is acquiring road right-of-way from the Bugni's for the widening of the Walnut/Sequoia Extension to Township Road. The City is taking the majority of Mr. Bugni's septic system drain field. There will not be enough land left for both a new drain field and back-up as required by Clackamas County regulation.

Therefore, we need to connect the Bugni's to our municipal sewer system. We had talked about the possibility of a health hazard annexation of the Bugni property, but upon closer analysis, it was determined that would be a very difficult and cumbersome process. We will simply extend city service by means of an extra-territorial extension.

Clackamas County must consent to an extra-territorial extension and as set forth in the Resolution; it has consented, through John Borge, Clackamas County Planner. Dwayne Barnes handled the contact with Mr. Borge. My thanks to Dwayne.

A motion to approve the Resolution would be appropriate. If you have any questions about this issue, please feel free to call me any time to discuss.

RESOLUTION NO. 977

A RESOLUTION EXTENDING MUNICIPAL SEWER SERVICE TO 470 SOUTH WALNUT STREET TAX LOT 2800 OF TAX MAP 3-1E-34 LOCATED OUTSIDE OF THE CANBY CITY LIMITS, PURSUANT TO THE URBAN GROWTH MANAGEMENT AGREEMENT BETWEEN CLACKAMAS COUNTY AND CITY OF CANBY

WHEREAS, a residence owned by Ommi and Janice Bugni, is located at 470 South Walnut Street. The residence is located in Clackamas County, Oregon, but is immediately adjacent to the corporate limits and within the Urban Growth Boundary of the City of Canby; and

WHEREAS, the Sequoia Parkway Phase V construction project will destroy the septic tank drain field of the Bugni residence; and

WHEREAS, on April 21, 2008, Clackamas County Principal Planner, John Borge, acting as agent for Clackamas County, examined the Urban Growth Management Agreement; and

WHEREAS, The Urban Growth Management Agreement states "The City shall not extend sewers or water to any unincorporated areas within the UGMB without annexation to the City, or unless mutually agreed to otherwise by the City and County."; and

WHEREAS, John Borge, Principal Planner, on behalf of Clackamas County consents that Clackamas County mutually agrees to the connection of Ommi and Janice Bugni's residence to the City of Canby Municipal Sanitary Sewer System; now therefore,

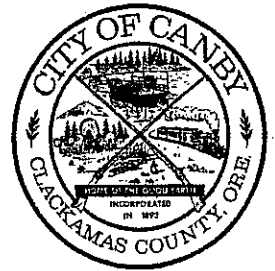
BE IT RESOLVED that the residence located at 470 South Walnut Street is permitted and directed to connect to the City of Canby sanitary sewer system. Location of the connection to the City sewer shall be approved by the Public Works Director.

ADOPTED this 7th day of May, 2008, by the Canby City Council.

Melody Thompson - Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder, Pro-Tem



MEMORANDUM

TO: *Honorable Mayor Thompson and City Council
Chair Tony Helbling and Urban Renewal Agency Members*

FROM: *Catherine Comer, Economic Development Manager*

DATE: *April 23, 2008*

THROUGH: *Mark C. Adcock, City Administrator*

RE: *City Council Resolution 978
Urban Renewal Resolution 08-001*

Synopsis

The State of Oregon has requested this amendment to the intergovernmental agreement with the Canby Urban Renewal Agency regarding the construction of S. Sequoia Parkway Phases 5 & 6 and S. Berg Parkway.

Recommendation

Staff recommends that the Council approve Resolution 978.

Rationale

The Council and Agency have previously indicated their commitment to this project; and Resolution 978 is simply a housekeeping matter.

Background

Resolution 945 was adopted in February of 2007 and in the final review of documents for the Oregon Economic & Community Development Loan, the State is requesting the inclusion of paragraphs V and VI on page two Exhibit A.

Attached

Resolution 978.

RESOLUTION NO. 978

A RESOLUTION ADOPTING AN AMENDED INTERGOVERNMENTAL AGREEMENT WITH THE CANBY URBAN RENEWAL AGENCY REGARDING THE CONSTRUCTION OF S. SEQUOIA PARKWAY PHASES 5 & 6 AND S. BERG PARKWAY.

WHEREAS, The City and Agency have determined that construction of the phases 5 & 6 of S. Sequoia Parkway and S. Berg Parkway are community priorities; and

WHEREAS, the Oregon Economic and Community Development Department's Special Public Works Fund Program is able to provide a loan to fund construction of S. Sequoia Parkway Phases 5 & 6 and Berg Parkway; and

WHEREAS, The Agency is willing and able to fund the debt service on the SPWF loan but is not an eligible recipient; and

WHEREAS, The City is an eligible recipient of the SPWF loan, as provided in OAR 123-042-0020(16);

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

- (1) The City Council agrees to the terms and conditions of the Amended Intergovernmental Agreement attached hereto as Exhibit "A" and authorizes and directs the Mayor to sign said agreement on behalf of the City of Canby.

This resolution will take effect on May 7, 2008.

ADOPTED this 7th day of May, 2008 by the Canby City Council.

Melody Thompson – Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder Pro-Tem

EXHIBIT "A"
AMENDED INTERGOVERNMENTAL AGREEMENT ON
SEQUOIA PARKWAY AND SOUTH BERG PARKWAY CONSTRUCTION AND
OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT LOAN

This Amended Agreement is entered into by and between the City of Canby ("City") and Canby Urban Renewal Agency ("Agency"), pursuant to ORS 190.003 to 190.110, which allows units of government to enter into agreements for the performance of any or all functions and activities which such units have authority to perform.

RECITALS

WHEREAS, The City and Agency ("the parties") have determined that construction of phases 5 AND 6 OF S. Sequoia Parkway and construction of S Berg Parkway are a community priorities; and

WHEREAS, The Urban Renewal Agency has agreed to provide funding for phases 5 and 6 of S. Sequoia Parkway and \$250,000 in funding towards S. Berg Parkway construction; and

WHEREAS, the Oregon Economic and Community Development Department's Special Public Works Fund Program is able to provide a loan ("SPWF loan") to fund construction of S. Sequoia Parkway and the Urban Renewal Agency's share of S. Berg Parkway, but has requested the original IGA be amended to include paragraphs V and VI below; and

WHEREAS, The Agency is willing and able to fund the debt service on the SPWF loan but is not an eligible recipient; and

WHEREAS, The City is an eligible recipient of the SPWF loan, as provided in OAR 123-042-0020(16);

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

- I. The Agency intends to complete a Special Public Works Fund loan application to fund phases 5 and 6 of S. Sequoia Parkway and the Urban Renewal District's share of S. Berg Parkway construction costs. The City agrees to submit this loan application to the State of Oregon.
- II. The Revenue pledged to repay the SPWF loan will be provided by the Agency. The parties agree that the Agency will repay the City for any and all costs relating to:
 - a. The preparation, submitted, and acceptance of the SPWF loan, including by not limited to design engineering, surveying, and planning; and
 - b. Loan payments, debt service, construction costs, and any other expenses relating to the SPWF loan, for the full life of the loan, should it be awarded to the City

- III. Payments relating to the SPWF loan and Sequoia Parkway construction, and the Urban Renewal District's share of S. Berg Parkway construction shall be made by the use of tax-increment revenues received by the Agency or any other source of revenue that the Agency deems appropriate
- IV. The City may, at a later date, provide Systems Development Charge funds to the Agency to cover SDC-eligible expenses incurred by the Agency in the construction of Sequoia Parkway. Nothing in this agreement should be construed as either requiring or preventing such payments
- V. The Urban Renewal Agency will not incur any obligations payable from or secured by a lien on or pledge of the Incremental Property Tax Revenues that is superior to or on parity with the IGA without the Borrower's written consent.
- VI. The Urban Renewal Agency will not remove any property from the Area if such removal will cause the anticipated Incremental Property Tax Revenues to be inadequate to pay the annual debt service of the Loan and any parity obligations.

Termination modification

This Agreement shall continue indefinitely unless amended in writing with the concurrence of all parties.

Severability

If any section, clause or phrase of this agreement is invalidated by any court of competent jurisdiction, any and all remaining parts of the agreement shall be severed from the invalid parts and shall remain in full force and effect.

CITY OF CANBY

**CANBY URBAN RENEWAL
AGENCY**

Melody Thompson, Mayor

Anthony Helbling, Chair

Date

Date

ATTEST:

ATTEST:

By: _____
Kimberly Scheafer, CMC
City Recorder pro-tem

By: _____
Kimberly Scheafer, CMC
City Recorder pro-tem

ORDINANCE NO. 1273

AN ORDINANCE AUTHORIZING THE MAYOR AND/OR CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH SIGNATURE PAVING SERVICES INC. OF NEWBERG, OREGON TO PAVE AN AREA OF COMMUNITY PARK FOR THE CANBY PARKS DEPARTMENT; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Canby wishes to pave an area within Community Park which totals approximately 17,000 square feet more or less, and

WHEREAS, the cost of the paving project will be paid by the Canby Parks Department with funds budgeted and approved for this purpose in the 2007-2008 fiscal year budget; and

WHEREAS, in accordance with ORS Chapter 279 and Canby Public Purchasing Rules as set forth in Ordinance No. 1170 and Resolution No. 897, four written bids were obtained for a contractor to pave the park:

1. Signature Paving Services Inc., Newberg, OR	\$23,162.50
2. Hal's Construction Inc., Molalla, OR	\$23,876.00
3. Parker Northwest Paving Co., Oregon City, OR	\$23,915.00
4. Coast Pavement Services, Tigard, OR	\$32,300.00

WHEREAS, Signature Paving Services Inc. of Newberg, Oregon submitted the lowest quote of \$23,162.50 to pave the requested area; and

WHEREAS, the City Council meeting and acting as the Contract Review Board for the City of Canby has reviewed this quote, reviewed the staff report and believes it to be in the best interest of the City to contract with Signature Paving Services Inc., to pave said area in Community Park; and

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. The Mayor and/or City Administrator are hereby authorized and directed to make, execute and declare in the name of the City of Canby and on its behalf, an appropriate contract with Signature Paving Services Inc. to pave an area in Community Park for the Canby Parks Department for a total of \$23,162.50.

Section 2. In so much as it is in the best interest of the citizens of the City of Canby, Oregon to provide the Parks Department with pavement project without further delay, and to better serve the citizens of Canby, an emergency is hereby declared to exist and this ordinance shall therefore take effect immediately upon its enactment after final reading.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on April 16, 2008, and ordered posted in three (3) public and conspicuous places in the City of Canby as specified in the Canby City Charter and to come before the City Council for final reading and action at a regular meeting thereof on May 7, 2008, commencing at the hour of 7:30 P.M. in the Council Meeting Chambers at 155 NW 2nd Avenue in Canby, Oregon.

Kimberly Scheafer, CMC
City Recorder - Pro Tem

PASSED on second and final reading by the Canby City Council at a regular meeting thereof on the 7th day of May, 2008, by the following vote:

YEAS _____

NAYS _____

Melody Thompson, Mayor

ATTEST:

Kimberly Scheafer, CMC
City Recorder - Pro Tem