

RESOLUTION NO. 99-005

A RESOLUTION AUTHORIZING THE CITY MANAGER AND
CITY CLERK TO EXECUTE AN AGREEMENT WITH THE
PORT OF THE DALLES CONCERNING CONSTRUCTION OF
IMPROVEMENTS FOR THE CHENOWETH CREEK
INDUSTRIAL SUBDIVISION

WHEREAS, the Port of The Dalles submitted an application for a tentative plan approval for Subdivision No. 44-98 to subdivide approximately 72 acres into 26 lots, on property located East of River Road and North of Crates Way, described as Township 2 North, Range 13 East, Section 28, Tax Lots 100, 200, 300, 400, 500 & 600, and Township 2 North, Range 13 East, Section 28D, Tax Lots 100 & 200, which subdivision has tentatively been given the name of the Chenoweth Creek Industrial Subdivision; and

WHEREAS, the Port and the City desire to enter into an agreement which will set forth the terms and conditions under which the final plat can be approved for Subdivision No. 44-98; and

WHEREAS, Section 9(12) of General Ordinance No. 937 concerning subdivisions, which was the ordinance under which the Port submitted its application for the subdivision, provides that in lieu of installing public improvements, an applicant for a subdivision can enter into an agreement with the City which specifies the maximum period within which the improvements will be completed; and

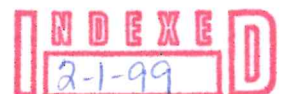
WHEREAS, Section 9(13) of General Ordinance No. 937 provides that any improvement agreement entered into under subsection (12) must include some form of performance guarantee acceptable to the City Attorney; and

WHEREAS, staff members for the City and the Port have drafted the terms for an improvement agreement for Subdivision No. 44-98, a copy of which is attached to this Resolution as Exhibit "A"; and

WHEREAS, the City Council believes it is in the best interests of the citizens of The Dalles to authorize the execution of the agreement set forth in Exhibit "A".

NOW, THEREFORE, THE CITY COUNCIL OF THE DALLES RESOLVES AS FOLLOWS:

Section 1. The improvement agreement for the Chenoweth Creek Industrial Subdivision, set forth in Exhibit "A", is hereby approved, and the City Manager and City Clerk are authorized to execute the agreement, and to perform such other acts as are necessary and proper.



PASSED AND ADOPTED THIS 25TH DAY OF JANUARY, 1999.

Voting Yes, Councilmembers: Davison, Broehl, Davis, Gosiak, Wasser

Voting No, Councilmembers: None

Absent, Councilmembers: None

Abstaining, Councilmembers: None

AND APPROVED BY THE MAYOR THIS 25TH DAY OF JANUARY, 1999.

Mary Ann Davis

~~Robb Van Gleave, Mayor~~

Mary Ann Davis, Mayor pro-tem

Attest:

Julie Krueger

Julie Krueger, CMC/AAE, City Clerk

AGREEMENT

WHEREAS, the Port of The Dalles, hereinafter referred to as “Subdivider”, submitted an application for a tentative plan approval for Subdivision No. 44-98 to subdivide approximately 72 acres into 26 lots, on property located East of River Road and North of Crates Way, described as Township 2 North, Range 13 East, Section 28, Tax lots 100, 200, 300, 400, 500, & 600, and Township 2 North, Range 13 East, Section 28D, Tax lots 100 & 200, which subdivision has tentatively been given the name of the Chenoweth Creek Industrial Subdivision; and

WHEREAS, the City of The Dalles Planning Commission adopted Resolution No. P.C. 400-98 on June 18, 1998, a copy of which is attached hereto as Exhibit “A”, granting tentative approval of Subdivision No. 44-98, subject to certain conditions; and

WHEREAS, the Subdivider and the City desire to enter into an agreement which will set forth the terms and conditions under which the final plat can be approved for Subdivision No. 44-98; and

WHEREAS, Section 9(12) of Ordinance Number 937 concerning subdivisions, which was the Ordinance under which the Subdivider submitted its application, provides that in lieu of installing public improvements, an applicant for a subdivision can enter into an agreement with the City which specifies the maximum period within which the improvements will be completed; and

WHEREAS, Section 9(13) of Ordinance Number 937 provides that any improvement agreement entered into under subsection (12) must include some form of performance guarantee acceptable to the City Attorney; and

WHEREAS, the City of The Dalles and the Port of The Dalles have submitted an application to the Oregon Economic Development Department and the U.S. Department of Commerce Economic Development Administration for grant funding for the proposed subdivision project;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties mutually agree as follows:

1. The City and Subdivider understand and agree that the Subdivider intends to continue with its efforts to offer the potential lots in Subdivision No. 44-98 for sale, and to the extent the City's approval to do so is required by law or ordinance, it is given by execution of this agreement by the City, and that any potential sale is contingent upon the final plat being approved by the City, and being properly recorded. The Subdivider reserves the right to enter into agreements with potential purchasers, with a condition that any sale is contingent upon the final plat being approved and properly recorded.

2. As recited above, the City of The Dalles and the Subdivider have submitted grant applications to the Oregon Economic Development Department and the U.S. Department of Commerce Economic Development Administration for grant funding for the proposed subdivision project. Attached hereto as Exhibit "B" is a confirmation of the award of grant funding from the Oregon Economic Development Department. The City and the Subdivider anticipate confirmation of award of grant funding from the U.S. Department of Commerce in February or March, 1999. Upon receipt of that confirmation, a copy of the confirmation shall be incorporated into this Agreement as Exhibit "C".

Upon confirmation by the Subdivider that all necessary sources of funding, including but not limited to the grant funding from the Oregon Economic Development Department and the

U.S. Department of Commerce Economic Development Administration, has been arranged for and received, and that the bids for construction of the subdivision improvements are within the project budget, the Subdivider may submit the final plat to the City for approval and recording. The City agrees to record the final plat upon verification that all conditions required to be shown on the final plat, are actually shown on the final plat. In the event the Subdivider is not able to secure all required sources of funding to complete the subdivision improvements, or in the event the bids received exceed the funds available to complete the construction of the subdivision improvements, then the Subdivider reserves the right to withdraw its request for approval of the final plat, and to not complete the public improvements as outlined in this Agreement.

3. City and Subdivider acknowledge that with the consensus of the City Planning Commission, condition #19 in Exhibit "A" has been modified to provide that the condition will not go into effect, nor be required prior to the development of the eighth lot or more than 12 acres of land in the Chenoweth Creek subdivision, whichever event occurs first. City and Subdivider acknowledge the City's concern regarding potential undermining of Crates Way from excavation on adjacent lots will be addressed by either restrictive language recorded on the plat itself, a set of restrictive covenants and conditions placed on the lots in question, or a slope easement.

4. The public improvements to be constructed by the Subdivider are set forth in the intergovernmental agreement between the Subdivider and the City of The Dalles, dated August 12, 1998. The engineer's estimate for the improvements is approximately \$1.1 million, and can be itemized as follows:

Roadway (rock, asphalt, curb and sidewalk)	6,516 lf	@\$88.00/lf	= \$573,408.00
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Water system (pipe, bedding and services)	1,220 lf	@\$71.00/lf	= \$ 86,620.00
Sanitary sewer (pipe, bedding, manholes, services)	2,110 lf	@65.00/lf	= \$137,150.00
Storm sewer (pipe, bedding, manholes, and catch basins)	5,240 lf	@54.00/lf	= \$282,960.00

The Subdivider shall complete all of the public improvements listed above and as set forth in the intergovernmental agreement of August 12, 1998, within 9 months from the date of the recording of the final plat, if it is recorded, and shall comply with all of the conditions of approval for the tentative plat which are set forth in Exhibit "A", as modified. In the event the Subdivider fails to complete the specified improvements within the time period set forth in this agreement, and in accordance with the provisions of the August 12, 1998 intergovernmental agreement between the Subdivider and the City, and the conditions of approval set forth in Exhibit "A", as modified, the City may call for bids for completion of the improvements. The full costs and expense of completion of the improvements shall be paid for from any funding sources remaining, which have not already been spent upon the project.

In the event there are no funds remaining from the funding sources which Subdivider committed to the project, to complete the subdivision improvements, the Subdivider shall be responsible to reimburse the City for its cost incurred in completing the improvements. These costs shall include costs incurred by the City in preparing and awarding the public contract, project management services in administering the contract to complete the improvements, and any court costs or reasonable attorney fees incurred to collect the sums owed to the City. The sums owed to the City shall bear interest at the rate of ten percent (10%) per annum from the date

of the first publication of the notice of advertisement for bids for the contract to complete construction of the improvements.

Dated this _____ day of _____, 1999.

PORT OF THE DALLES

CITY OF THE DALLES

By: _____
John Geiger, President

By: _____
Nolan K. Young, City Manager

ATTEST: _____
D.M. Courtney, Secretary

ATTEST: _____
Julie Krueger, CMC/AAE
City Clerk

RESOLUTION NO. P.C. 400-98
APPROVING SUBDIVISION 44-98
OF PORT OF THE DALLES TO SUBDIVIDE APPROXIMATELY 72 ACRES INTO 26
LOTS, PLUS AN ADDITIONAL LOT FOR DEDICATION TO THE RIVERFRONT
TRAIL, AND ANOTHER FOR DEDICATION AND USE AS A POCKET PARK

I. RECITALS:

100, 200, 300, 400th, 500, 600

A. The Planning Commission of the City of The Dalles has, June 18th, 1998, conducted a public hearing to consider the above request for property located East of River Road and North of Crates Way, described as Township 2 North, Range 13 East, Section 28, tax lot ~~900~~, Township 2 North, Range 13 East, Section 28D, tax lot 100, and ~~Township 2 North, Range 13 East, Section 33, tax lot 200.~~ 200

B. A staff report was presented, stating the findings of fact, conclusions of law, and a staff recommendation.

C. Staff Report of Subdivision 44-98 and the minutes of the June 18th, 1998, Planning Commission meeting upon approval, provide the basis for this resolution and are herein attached by reference.

II. RESOLUTION:

Now, therefore, be it FOUND, DETERMINED, and RESOLVED by the Planning Commission of the City of The Dalles as follows:

- A. In all respects as set forth in Recitals, Part "I" of this resolution.
- B. Subdivision 44-98 is hereby approved with the following conditions:
1. Subdivision Ordinance #937, chapter VIII, Section 9, tentative plan approval shall be valid for one year within which time the applicant shall submit a final plan for approval and filing. The conditions of the tentative approval, including public improvements (or bonding) must be complete in order for the final plat to be accepted. The individual lots are not saleable or addressable until the final plat is filed.
 2. Applicant must submit all infrastructure plans and specifications for review and approval by the City Engineer prior to construction. Infrastructure locations shall conform to City standards and requirements. This is to be both on computer diskette (if available) and print.
 3. All City and American Association of State Highway Transportation Officials (AASHTO) standards are to be met with proper notice to City. As-builts must be provided and improvements accepted in writing by the City Engineer prior to final acceptance.

4. All underground utilities shall be installed prior to street surfacing.
5. Pedestrian access path must be provided between lots 17 and 18 from the right-of-way to the Riverfront Trail constructed of hard surfaced asphalt. Construction of this pedestrian connection may be delayed until the Riverfront Trail is constructed to the pedestrian connection. The Port shall pay for the construction costs for the pedestrian access to the Riverfront Trail.
6. Mutual Access agreement for lots 4 and 6 is acceptable if it meets fire marshal standards for emergency vehicle access and turnaround requirements.
7. Access to the public right-of-way will be controlled with curbs.
8. Radius of curvature in roads must be in accordance with AASHTO.
9. Curbs shall be constructed to City standards. Curb and gutter required if access points are not specified.
10. Forty (40) foot right-of-way allowable if City Council criteria established in resolution 89-023 is met.
11. Delete intersection between Chenoweth and intersection of Columbia and River Roads.
12. Reserve strip required at intersection of Klindt Drive and Crates Way for possible future extension of Klindt Drive.
13. Twelve (12) inches of aggregate required or modified in accordance with City Council Resolution 89-023.
14. Department of County Roads has indicated no future access will be granted to River Road.
15. Change typographical error on Columbia Road from indicating "Klindt Drive".
16. Flood plain information must be addressed on plan.
17. Access management on River Road must meet county standards.
18. Wasco County requires Developer to install straight curb and install bicycle lanes on River Road.
19. Prior to the approval of a final plat, the Port, City, and ODOT shall consult with each other to determine the scope and necessity of a traffic impact study showing the impact of the

subdivision on surrounding intersections, highway interchanges, and local streets. The recommendations for the study shall be submitted to the Planning Commission for approval prior to filing the final plat.

20. Utility service stubs shall be marked as requested by Public Works Department.
21. Utility service shall be provided to each lot.
22. The streets cannot be cut for ten (10) years without approval of the Public Works Director.
- X 23. A sewer capacity study must be provided by the applicant to determine lift station requirements. Additionally, these requirements must be met by the applicant.
24. Submit copies of approvals from the Department of Environmental Quality (DEQ) for proposed storm out falls into the Columbia River.
25. Pedestrian routes must meet ADA requirements.
26. Five foot public utility easement required on either side of the right-of-way with no hard surface coverage.
27. Lots 4 and 6 need private utility access/easement.
28. Fire hydrants need to be specified on construction plan submittal.
29. Approach permits are required from Wasco County for intersections from River Road.
30. No on-street parking will be permitted along River Road.
31. Developer shall submit name and qualifications of proposed inspector who will assure that the project is built in accordance with standards and approved plans, and submit reports, test results and as-builts as required for review and approval of the Public Works Director prior to the final acceptance of streets and utilities by the City.

III. APPEALS, COMPLIANCE, AND PENALTIES

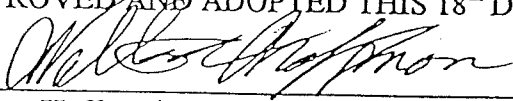
- A. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 36 of the Zoning Ordinance, and must be filed with City Clerk with in ten (10) days of the date of resolution.
- B. Failure to exercise this approval within the time limits set either by resolution or by

ordinance will invalidate this permit.

- C. All conditions of approval must be met within the time limits set by this resolution or by ordinance. Failure to meet any condition will prompt enforcement proceedings that can result in: 1) permit revocation; 2) fines of up to \$2,500.00 per day for the violation period and/or imprisonment in the County jail for a term not to exceed one (1) year.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 18th DAY OF JUNE, 1998.



Walter Hoffman, Vice-Chairman
Planning Commission

I, Tom Boyatt, Secretary to the Planning Commission of the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 18th day of June, 1998.

AYES: Hoffman, Peters, Lavier, Wilson

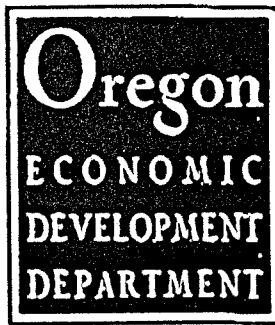
NOES:

ABSENT: Quinn, Barrett, Coggins

ABSTAIN:

ATTEST: 

Secretary, Planning Commission



November 23, 1998

John E. Geiger, Port President
Port of The Dalles
3636 Klindt Drive
The Dalles, OR 97058

RE: Special Public Works Fund, Award, Project No. B99002, (\$720,511), Port of The Dalles,
Chenoweth Creek Industrial Subdivision

Dear Mr. Geiger:

We are pleased to make the official announcement that your jurisdiction has received a preliminary award of \$720,511 from the Special Public Works Fund. The award will help finance the building of the public infrastructure needed to allow businesses to locate and/or expand operations at the port. The enclosed staff report presents our analysis of your application and describes the Special Conditions of Award.

The preliminary award is in the amount of a \$500,000 bonded loan and a \$220,511 grant. Separating our approval into a preliminary and final award, to be made following the receipt of construction bids, will enable us to finance the construction project based upon actual bid amounts. In this way, the port will have the amount of funds needed to complete the project.

A Memorandum of Understanding with conditions for the preliminary award will be sent to you under separate cover. The port may now begin to incur engineering costs for final design, which may be recovered from the Oregon Economic Development Department following the execution of the Memorandum of Understanding. In the event the project is canceled, the Port of The Dalles is only obligated to repay those funds that have been drawn.

Exhibit "B"

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Governor John A. Kitzhaber

Port of The Dalles
November 23, 1998
Page 2 of 2

Upon receipt of construction bids, a final award will be made and a contract will be executed. If your project is funded through the Oregon Bond Bank, a pooled revenue bond to be sold by the state, the state will also make a non-cash grant for bond issuance costs and debt service reserve, estimated to be \$12,500.

This offer will be extended 60 days from the date of this letter. If you have any questions, please call Laird Bryan, Project Manager, at (503) 986-0138.

Sincerely,



Betty Pongracz, Manager
Infrastructure Development

Enclosure

c: Samuel Sirkin
Yvonne Addington
David Harlan
Scott Hege, Port
Central Team