

RESOLUTION NO. 1077

A RESOLUTION AUTHORIZING THE ISSUANCE AND NEGOTIATED SALE OF FULL FAITH AND CREDIT OBLIGATIONS IN AN AMOUNT NOT TO EXCEED \$2,500,000; DESIGNATING AN AUTHORIZED REPRESENTATIVE, SPECIAL COUNSEL AND UNDERWRITER; AUTHORIZING APPOINTMENT OF A FINANCIAL ADVISOR; AUTHORIZING EXECUTION AND DELIVERY OF A FINANCING AGREEMENT AND AN ESCROW AGREEMENT; AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT WITH THE CANBY URBAN RENEWAL AGENCY; AND RELATED MATTERS

WHEREAS, the City of Canby, Clackamas County, Oregon (the "City"), is authorized by Oregon Revised Statutes ("ORS") Sections 271.390 to enter into financing agreements to finance real or personal property which the City determines is needed; and

WHEREAS, the City hereby determines that the acquisition, construction and/or renovation of NW 1st Avenue, commonly known as the "NW 1st Avenue Area Redevelopment Project" and related capital projects, is needed (the "Project"); and

WHEREAS, the City desires to obtain up to \$2,500,000 of financing for the Project.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

Section 1. Authorization. The City hereby authorizes:

A. Issuance and Sale of Obligations. The City authorizes the issuance and negotiated sale of Full Faith and Credit Obligations, Series 2010 (the "Obligations") in one or more series which shall be issued in an aggregate amount not to exceed \$2,500,000 by the escrow agent, for and on behalf of the City, to finance the Project. The Obligations shall be issued at a true effective rate of interest not to exceed seven percent (7%) per annum inclusive of all credits and cash subsidy payments paid by the United States Treasury and shall be issued as Recovery Zone Economic Development Bonds ("RZEDB") (as defined in paragraph 4.J. herein), at a discount not greater than ninety-eight and one-half percent (98.5%) (not including original issue discount) and shall mature not later than twenty-one (21) years from the date of issuance. The Obligations shall be sold at not more than a *de minimis* amount of original issue premium, if any.

B. Financing Agreement. The City authorizes the execution and delivery of a financing agreement (the "Financing Agreement") to finance the Project, in a form satisfactory to the Authorized Representative, as defined below.

C. Escrow Agreement. The City authorizes the execution and delivery of an escrow agreement between the City and the escrow agent (the "Escrow Agreement"), in a form satisfactory to the Authorized Representative, as defined below, pursuant to which the escrow agent shall execute the Obligations representing the principal amount payable under the

Financing Agreement, and evidencing the right of the escrow agent to receive the City's Financing Payments under the Financing Agreement.

Section 2. Security.

The Financing Payments for the Obligations shall be payable from the general, non-restricted revenues of the City and other funds which may be available for that purpose, including taxes levied within the restrictions of Sections 11 and 11b, Article XI of the Constitution of the State of Oregon. The obligation of the City to make Financing Payments shall be a full faith and credit obligation of the City, and is not subject to appropriation. The Owners of the Obligations shall not have a lien or security interest on the property financed with the proceeds of the Obligations. As determined by the Authorized Representative and as additional security for the Financing Payments, the City may pledge to the Owners of the Obligations its rights to any Tax Increment Revenues or reserve funds pursuant to an intergovernmental agreement with the Canby Urban Renewal Agency (the "Agency").

Section 3. Designation of Authorized Representative.

The City hereby authorizes the City Administrator or Finance Director, or any designee of the City Council (the "Authorized Representative") to act as the authorized representative on behalf of the City and determine the remaining terms of the Financing Agreement as delegated in Section 4 below.

Section 4. Delegation of Final Terms and Sale of Obligations and Additional Documents.

The Authorized Representative is authorized, on behalf of the City, to:

- A. deem final, approve of and authorize the distribution of the preliminary and final Official Statements to prospective purchasers of the Obligations;
- B. negotiate the terms under which the Obligations shall be sold, to enter into a Purchase Agreement for sale of the Obligations, and to execute and deliver the Purchase Agreement;
- C. establish the maturity and interest payment dates, dated date, principal amounts, optional, extraordinary and/or mandatory redemption provisions, interest rates, denominations, and all other terms under which the Obligations shall be issued, sold, executed, and delivered;
- D. negotiate the terms and approve of the Financing Agreement and the Escrow Agreement as the Authorized Representative determines to be in the best interest of the City, and to execute and deliver the Financing Agreement and the Escrow Agreement;
- E. determine whether the Obligations shall be Book-Entry certificates and to take such actions as are necessary to qualify the Obligations for the Book-Entry System of DTC, including the execution of a Blanket Issuer Letter of Representations;

F. seek to obtain a rating on the Obligations, if determined by the Authorized Representative to be in the best interest of the City;

G. determine whether to purchase municipal bond insurance or other credit enhancement for the Obligations, negotiate and enter into agreements with providers of credit providers, and expend proceeds to pay credit enhancement fees;

H. designate the Financing Agreement and the Obligations as a “qualified tax-exempt obligation” pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the “Code”), so long as the City and all subordinate entities do not reasonably expect to issue more than \$30,000,000 of tax-exempt obligations during the 2010 calendar year;

I. approve, execute and deliver a Tax Certificate;

J. make all determinations and elections to qualify the Obligations as Recovery Zone Economic Development Bonds pursuant to The American Recovery and Reinvestment Tax Act of 2009 and take all actions necessary or desirable to qualify the Obligations as RZEDBs;

K. approve, execute and deliver a continuing disclosure certificate pursuant to SEC Rule 15c2-12, as amended (17 CFR Part 240, §240.15c2-12) for each series of Obligations;

L. engage the services of escrow agents or trustees and any other professionals whose services are desirable for the financing;

M. enter into an intergovernmental agreement with the Agency in which the Agency agrees to pay tax increment revenues to the City in amounts and at times that are sufficient to allow the City to pay all or a portion of the amounts due under the Financing Agreement and Obligations from those tax increment revenues (the “Intergovernmental Agreement”);

N. pledge or otherwise commit the amounts the City receives under the Intergovernmental Agreement to pay amounts due under the Financing Agreement; and

O. execute and deliver a certificate specifying the action taken pursuant to this Resolution, and any other documents, agreements or certificates that the Authorized Representative determines are necessary and desirable to issue, sell and deliver the Obligations in accordance with this Resolution and take any other actions which the Authorized Representative determines are necessary or desirable to finance the Project with the Financing Agreement and the Obligations in accordance with this Resolution.

Section 5. Compliance with Internal Revenue Code.

The City hereby covenants for the benefit of the Owners of the Obligations to use the Obligation proceeds and the Project financed with Obligation proceeds in the manner required, and to otherwise comply with all provisions of the Code, which are required so that the Obligations qualify as RZEDB. The City makes the following specific covenants with respect to the Code:

A. The City will not take any action or omit any action if it would cause the Financing Agreement or Obligations to become arbitrage bonds under Section 148 of the Code.

B. The City shall operate the Project financed with the Obligations so that the Obligations do not become “private activity bonds” within the meaning of Section 141 of the Code.

C. The City shall comply with appropriate Code reporting requirements.

D. The City shall pay, when due, all rebates and penalties with respect to the Obligations which are required by Section 148(f) of the Code.

The covenants contained in this Section 5 and any covenants in the closing documents for the Obligations shall constitute contracts with the owners of the Obligations, and shall be enforceable by them. The Authorized Representative may enter into covenants on behalf of the City to protect the RZEDB status of the Financing Agreement and the Obligations.

Section 6. Appointment of Special Counsel.

The City appoints Mersereau Shannon LLP as special counsel to the City for the issuance of the Obligations.

Section 7. Appointment of Underwriter.

The City appoints Wedbush Securities Inc. as the underwriter for the issuance of the Obligations.

Section 8. Appointment of Financial Advisor.

The Authorized Representative is authorized to appoint a financial advisor to the City if in the opinion of the Authorized Representative it is deemed necessary or advisable.

Section 9. Resolution to Constitute Contract.

In consideration of the purchase and acceptance of any or all of the Obligations by those who shall own the same from time to time (the “Owners”), the provisions of this Resolution shall be part of the contract of the City with the Owners and shall be deemed to be and shall constitute a contract between the City and the Owners. The covenants, pledges, representations and warranties contained in this Resolution or in the closing documents executed in connection with the Obligations and the other covenants and agreements herein set forth to be performed by or on behalf of the City shall be contracts for the equal benefit, protection and security of the Owners, all of which shall be of equal rank without preference, priority or distinction of any of such Obligations over any other thereof, except as expressly provided in or pursuant to this Resolution.

Section 10. Effective Date.

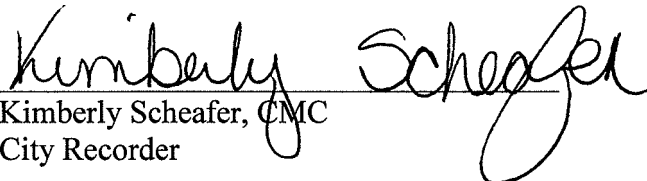
This resolution shall take effect on the date of its adoption.

This resolution is adopted by the Canby City Council this 3rd day of November 2010.



Melody Thompson
Mayor

ATTEST:



Kimberly Scheafer, CMC
City Recorder