

Council Business Meeting

November 21, 2017

Title: A Resolution Authorizing a Loan from the Safe Drinking Water Revolving Loan Fund

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Summary:

Before Council is a request to approve a resolution authorizing a financing loan increase of \$954,173 to a new loan total of \$4,465,200, and adjusting the loan's subsequent re-payment date. The additional funds ensure full pump station replacements for both Park Estates and Terrace Street Pump Stations rather than the initial pump only replacements. This is an ongoing project with the Oregon Infrastructure Finance Authority (IFA) that was initially signed on July 1, 2014, with the TAP Pipeline and Pump Station Improvements.

Actions, Options, or Potential Motions:

Council may move approval of a resolution titled, "A resolution authorizing a loan from the Safe Drinking Water Revolving Loan Fund by entering into a financing contract with the Oregon Infrastructure Finance Authority for contract amendment number 4, (S14005, A-04) Pump Station Replacements and TAP Intertie," and further authorize the Interim City Administrator to sign the loan documents.

Should Council not approve this loan increase, staff recommends moving forward with this projects and borrowing the funds from a different source such as the Oregon Special Public Works Fund (through Business Oregon) or conventional financing which would likely incur higher interest rates and repayment costs.

Staff Recommendation:

Staff recommends moving forward with the new loan amount. Business Oregon manages the IFA loans and Ms. Mary Baker, along with the City's Project Manager, Kevin Caldwell, have partnered to ensure the City will meet the IFA requirements and fiduciary responsibilities.

Resource Requirements:

Total project cost amounts are \$7,087,805 and include the original TAP emergency pipeline in 2014/2015; increased for the permanent TAP pump station; and again now for the Park Estates and Terrace Street Pump Stations. The biennium budget has \$3,570,000 for the pump stations and pretreatment for the City's use of Talent Irrigation Ditch raw water. This additional loan amount will be added as new revenue and a new expenditure. The repayment amount will come for a mix of SDCs and rates.

Policies, Plans and Goals Supported:

The projects presented above represent the development and subsequent Council approval of the 2012 Comprehensive Water Master Plan Update. The water master plan update was the culmination of a multiyear effort between Carollo Engineers, AWAC and city staff. Staff is currently in the process of completing a new Water Master Plan Update with RH2 Engineers.

Council Goals:

4. *Evaluate real property and facility assets to strategically support city mission and goals.*
22. *Prepare for the impact of climate change on the community.*

Department Goals:

- Maintain existing infrastructure to meet regulatory requirements and minimize life-cycle costs
- Deliver timely life cycle capital improvement projects
- Maintain and improve infrastructure that enhances the economic vitality of the community
- Evaluate all city infrastructure regarding planning management and financial resources

Background and Additional Information:

Council authorized the emergency procurement process for the TAP Pipeline project on February 18, 2014, in response to drought projections. Council further re-obligated \$2.4 million originally designated for the Park Estates Pump Station to the TAP pipeline project and also authorized the original Oregon Infrastructure Finance Authority (IFA) Safe Drinking Water Revolving Loan Fund in the amount of \$2,970,000 (with \$950,000 eligible for principal forgiveness if contract conditions are met) and the interest rate is not more than 1% if contract conditions are met (and 3.48% if not met).

On March 17, 2015, Council authorized amendment #1 to increase the original loan amount by \$541,027 in order to build a permanent pump station bringing the new loan amount to \$3,511,027 with the same principal forgiveness and interest rate terms as the original loan. Two additional amendments were executed; amendment #2 (executed in February 2017) to remove the Loop Road Reservoir and increase the amount of matching funds, transferring the remaining funds to the Pump Station Improvements; and amendment #3 (executed in September 2017) extending the contract completion to January 17, 2019.

This amendment #4 increases the loan by \$954,173 to a new loan total of \$4,465,200 to replace both the Park Estates and Terrace Street Pump Stations in their entirety, not just replace the variable frequency drive pumps, to ensure they meet adequate suction and automation for the existing reservoir. Amendment #4 the same principal forgiveness (\$950,000) and interest rate (1%) terms as the original loan and the extended contract completion of January 17, 2019 has the first repayment date extended from December 1, 2017 to December 1, 2019.

Attachments:

- Resolution
- Contract Amendment Number 4, (S14005, A-04)
- Promissory Note IFA / City of Ashland

RESOLUTION NO. 2017-

A RESOLUTION AUTHORIZING A LOAN FROM THE SAFE DRINKING WATER REVOLVING LOAN FUND BY ENTERING INTO A FINANCING CONTRACT WITH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY FOR CONTRACT AMENDMENT NUMBER 4, (S14005, A-04) PUMP STATION REPLACEMENTS AND TAP INTERTIE

RECITALS:

- A. The City of Ashland "Recipient" is a community water system as defined in Oregon Administrative Rule 123-0490010.
- B. The Safe Drinking Water Act Amendments of 1996, Pub.L. 104-182, as amended (the "Act"), authorize any community or nonprofit non-community water system to file an application with the Oregon Infrastructure Finance Authority ("the IFA") to obtain financial assistance from the Safe Drinking Water Revolving Loan Fund.
- C. The Recipient and IFA signed a Financing Contract, #S14005, to contract for financial assistance for a "safe drinking water project" within the meaning of the Act,
- D. The Recipient has applied to the IFA for an increase in the loan amount from IFA, and is required, as a prerequisite to the receipt of financial assistance from the IFA, to enter into an amendment to the Financing Contract with the IFA, substantially in the form attached hereto as Exhibit A.
- E. Notice relating to the Recipient's consideration of the adoption of this Resolution was published in full accordance with the Recipient's charter and laws for public notification.

THE CITY OF ASHLAND RESOLVES AS FOLLOWS:

SECTION 1. Financing Loan Authorized. The Governing Body authorizes the City Administrator to execute the Financing Contract and the Promissory Note (the "Financing Documents") and such other documents as may be required to obtain financial assistance including a loan from the IFA on the condition that the principal amount of the loan from the IFA to the Recipient is not more than \$3,515,200 (with \$950,000 eligible for principal forgiveness if contract conditions are met) and the interest rate is not more than 1% if contract conditions are met (and 3.48% if not met). The proceeds of the loan from the IFA shall be applied solely to the "Costs of the Project" as such term is defined in the Financing Contract.

SECTION 2. Security. Amounts payable by the Recipient shall be payable from the sources described in Section 4 of the Financing Contract and the Oregon Revised Statutes Section 285A.213 (5) which include:

- (a) Revenue from any water system project of the Recipient, including special assessment revenue;

- (b) Amounts withheld under subsection 285A.213 (6);
- (c) The general fund of the Recipient;
- (d) Any combination of sources listed in paragraphs (a) to (c) of this subsection; or
- (e) Any other source.

SECTION 3. Additional Documents. The Interim 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 IFA for the Project pursuant to the Financing Documents.

SECTION 4. Tax-Exempt Status. The Recipient covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Recipient pursuant to the Financing Documents 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 of the Recipient may enter into covenants on behalf of the Recipient to protect the tax-exempt status of the interest paid by the Recipient pursuant to the Financing Documents and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the IFA or their bond counsel to protect tax-exempt status of such interest.

This resolution was duly PASSED and ADOPTED this _____ day of _____, 2017, and takes effect upon signing by the Mayor.

Melissa Huhtala, City Recorder

SIGNED and APPROVED this ____ day of _____, 2015.

John Stromberg, Mayor

Reviewed as to form:

David H. Lohman, City Attorney

Amendment Number 4

Project Name: Pump Station Replacements and TAP Intertie

This amendment is made and entered into by and between the State of Oregon, acting by and through the Oregon Infrastructure Finance Authority of the Oregon Business Development Department ("IFA"), and the City of Ashland ("Recipient"), and amends the Financing Contract, Project Number S14005, dated 18 July 2014 (as amended, "Contract") for the above-named Project. Capitalized terms not defined in this amendment have the meanings assigned to them by the Contract.

Recital: The purpose of this amendment is to increase the loan amount to pay for an additional pump station replacement.

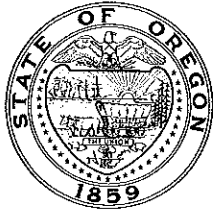
The parties agree as follows:

1. Amend the Project Name as follows (deletion in ~~striketrough~~; addition in double underline):
"Project Name: Pump Station ~~Improvements~~ Replacements and TAP Intertie"
2. Amend the following Key Terms in Section 1 of the Contract as follows (deletions in ~~striketrough~~; additions in double underline):
" "Estimated Project Cost" means \$6,133,632 \$7,087,805
 "Loan Amount" means \$2,561,027 \$3,515,200 "
3. Delete Exhibit C (Form of Section 2.A. Promissory Note) to the Contract and replace it with the attached new Exhibit C.
4. Amend Exhibit D (Project Description) to the Contract as follows (deletions in ~~striketrough~~; additions in double underline):
" Recipient, with the assistance of an engineer licensed in Oregon, will complete the following two project activities:
 1. Pump station replacements: Replace two pump stations in their entirety to suit the suction requirements for filling the existing reservoir. Move all electrical and mechanical components above ground into new buildings that will eliminate confined space hazards to staff at both locations and allow for automated pump station operation. This activity covers design and construction.
~~Pump station upgrades and replacements: PUMP STATION IMPROVEMENTS (Master Plan Project, S-10 & S-15). This includes replacement of the Park Estates pump station to suit the suction requirements for filling the existing reservoir, as well as to improve the energy efficiency of the pumps by replacement with the high efficiency pumps. The second pump station improvement consists of adding VFD controllers to existing TID pumps to improve pumping efficiency and control. This activity covers design and construction.~~
 2. Extension of the Talent, Ashland, Phoenix (TAP) pipeline from Talent to Ashland to provide additional/alternative water to supplement Ashland's water treatment plant along with pump stations, including construction of a two new permanent pump stations, to bring water to Ashland. This activity includes design and installation of 14,000 feet of pipe ~~and modification of the Talent pump station.~~"
5. Delete Exhibit E (Project Budget) to the Contract and replace it with the attached new Exhibit E.

IFA shall have no obligation under this amendment, unless within 60 days after receipt, the Recipient delivers to IFA the following items, each in form and substance satisfactory to IFA and its Counsel:

- (i) This amendment duly executed by an authorized officer of the Recipient;
- (ii) A copy of the ordinance, order or resolution of the governing body of Recipient, certified by an authorized officer of Recipient, authorizing the borrowing of the new Loan Amount, the contemplated transactions under this amendment, and the execution and delivery of this amendment and the replacement Note.
- (iii) A replacement Section 2.A. Note duly executed by an authorized officer of the Recipient, substantially in the form of Exhibit C, given in replacement of, but not in payment or satisfaction of, the existing Section 2.A. Note.
- (iv) Such other certificates, documents, opinions and information as the State may reasonably require.

Except as specifically provided above, this amendment does not modify the Contract, and Contract shall remain in full force and effect during the term thereof. This amendment is effective on the date it is fully executed and approved as required by applicable law.



STATE OF OREGON
acting by and through the
Oregon Infrastructure Finance Authority



**CITY OF
ASHLAND**

CITY OF ASHLAND

By: _____
Chris Cummings, Assistant Director
Economic Development

By: _____
The Honorable John Stromberg
Mayor of Ashland

Date: _____

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY IN ACCORDANCE WITH ORS 291.047:

/s/ David Elott (as per email dated 23 October 2017)
David Elott, Assistant Attorney General

City of Ashland
PROMISSORY NOTE

Dated _____, _____

Ashland, Oregon

FOR VALUE RECEIVED, the City of Ashland, 20 E Main Street, Ashland, OR 97520 ("Recipient"), unconditionally promises to pay in lawful money of the United States of America to the order of the STATE OF OREGON, ACTING BY AND THROUGH THE OREGON INFRASTRUCTURE FINANCE AUTHORITY ("IFA"), at its principal office at 775 Summer Street NE, Suite 200, Salem, OR 97301-1280, or such other place as IFA or other holder of this Note may designate, the principal sum of Three Million, Five Hundred Fifteen Thousand, Two Hundred Dollars (\$3,515,200) or so much as is disbursed under the Contract (as defined below), plus interest on each disbursement at the Note Interest Rate of One percent (1.0%) per annum, from the disbursement date until paid. Interest will be computed on the basis of a 360-day year, consisting of twelve 30-day months.

This Note is subject to and secured by that certain contract, number S14005, between IFA and Recipient (as amended from time to time, the "Contract"). Capitalized terms not otherwise defined in this Note will have the meanings assigned to them by the Contract.

The Recipient shall make level installment payments of principal and interest, commencing on the Repayment Commencement Date and thereafter on each Payment Date. Each such installment will be in an amount sufficient to pay the interest accrued to the date of payment and so much of the principal as will fully amortize the Loan by the Maturity Date. Notwithstanding the above, the first such installment payment will be adjusted to include actual unpaid interest that accrued to the Repayment Commencement Date. On the Maturity Date, the entire outstanding principal balance and all accrued unpaid interest will be due and payable in full.

This Note is subject to mandatory prepayment and is payable prior to its maturity, and each payment made by Recipient will be applied as provided in section 4 (Loan Payment; Prepayment) of the Contract.

This Note is given to avoid the execution by Recipient of an individual note for each disbursement of Loan proceeds by IFA to Recipient in accordance with section 3 (Disbursements) of the Contract. The Recipient authorizes IFA to record the date and amount of each such disbursement, the date and amount of each payment and prepayment by Recipient, and the amount of interest accrued and paid. Absent manifest error, such notations will be conclusive evidence of borrowing, payments and interest under this Note; provided, however, that failure to make any such notations will not affect the obligations of Recipient under this Note or the Contract.

If any Event of Default occurs, the outstanding balance of this Note (including principal, interest and other charges, if any), at the option of IFA, becomes immediately due and payable in accordance with section 10 (Remedies) of the Contract. Failure or delay of the holder of this Note to exercise any option available under the terms of this Note, the Contract or any of the Financing Documents will not constitute a waiver of the right to exercise the option in the event of any continuing or subsequent default of the same or of any other provision. Presentment, dishonor, notice of dishonor, and protest are hereby waived.

To the extent permitted by the Oregon Constitution and the Oregon Tort Claims Act, the prevailing party in any dispute arising from this Note is entitled to recover its reasonable attorneys' fees and costs at trial and on appeal. Reasonable attorneys' fees cannot exceed the rate charged to IFA by its attorneys. Recipient shall, on demand, pay to IFA reasonable expenses incurred by IFA in the collection of Loan payments.

The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this Note, including, without limitation, its validity, interpretation, construction, performance, and enforcement.

Notice to Recipient: Do not sign this Note before you read it.

CITY OF ASHLAND

By: _____

Title: _____