

ORDINANCE NO. 290

AN ORDINANCE OF THE CITY OF COOS BAY, AUTHORIZING A LOAN FROM THE SPECIAL PUBLIC WORKS FUND OF THE STATE OF OREGON BY ENTERING INTO A LOAN CONTRACT WITH THE OREGON ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

The City Coos Bay ordains as follows:

Section 1. Findings.

- (a) The City of Coos Bay ("the City") is a "municipality" within the meaning of ORS 285B.410(1).
- (b) ORS 285B.410-285B.479 ("the Act") authorizes 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 City 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 City's application for financial assistance from the Special Public Works Fund pursuant to the Act.
- (e) The City is required, and 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 in substantially the form of the attached Exhibits "A" and "B."
- (f) The project described in Exhibit "A" to the Loan Agreement ("the Project") is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the City.
- (g) Notice relating to the City's consideration of the adoption of this Ordinance was published at least once in "The World," a newspaper of general circulation with the City of Coos Bay. Such notice was published at least 14 days in advance of the adoption of this Ordinance.

Section 2: Loan Authorized. The City Council authorizes the City Manager to execute the Financial Assistance Award Contract, Loan Agreement, Promissory Note which is attached as "Exhibit F" to the Loan Agreement (collectively "the Financing Documents") and such other documents as may be required to obtain financial assistance, including a loan from the Department on the condition that the principal amount of the loan from the Department to the City is not in excess of six million two hundred and fifty thousand dollars (\$6,250,000.00) and the interest rate on such loan is five and one-half percent (5.5%), provided, however, that such interest rate may be adjusted upwards or downwards, as the case may be, by the State upon the Bond Closing Date, as defined in "Exhibit C" of the Loan Agreement, to the rate equal to the lowest rate that will be sufficient to ensure that annual amounts paid by the City pursuant to the Financing Documents will be no less than the City's pro-rata portion of the maximum annual debt service on the State-issued Bonds. The proceeds from the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

Section 3. Security. Amounts payable by the City shall be payable from the sources described in Section 2.07 of the Loan Agreement and ORS 285B.443(2), which include:

- (i) Any sources of funds that are legally available to the City;
- (ii) Net Revenues, if any, of the Project, as defined in “Exhibit 2 – Special Conditions” of the Loan Agreement, and including special assessment revenues, if any.
- (iii) The City's general fund, including the general revenues of the City, other funds which may be available for such purpose and a pledge of the City's taxing power within the restrictions of Article XI, Section 11 and 11b of the Constitution of the State of Oregon. The obligation of the City to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the City that is not subject to annual appropriation.

Section 4. Additional Documents. The City Manager 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.

Section 5. Tax-Exempt Status. The City covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the City 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 Manager of the City may enter into covenants on behalf of the City to protect the tax-exempt status of the interest paid by the City 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 of their bond counsel to protect the tax-exempt status of such interest.

Section 6. Reimbursement Bonds. The City may reimburse expenditures for the Project with the amounts received from the Department pursuant to the Financing Documents. Additionally, the City acknowledges that the Department may fund or reimburse itself for the funding of the amounts paid to the City pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Ordinance 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 of the reimbursement for the funding of the costs of the Project within the proceeds of the City's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

Section 7. Declaration of Emergency. The City Council declares that an emergency exists in order that there be no delay in financing the Project as provided in this Ordinance. Therefore, this Ordinance shall be in force and effect from and after the passage by the City Council.

Section 8. Delegation of Authority. The City Council hereby confers on the Coos Bay-North Bend Water Board, acting in its capacity as a joint agency of the City of Coos Bay and the City of North Bend, the authority and responsibility to undertake and complete all obligations, abide by all covenants, and conform to all warranties as set forth in the Financing Documents between the State of Oregon and the City of Coos Bay. The Coos Bay-North Bend Water Board shall further keep the City informed of the progress of the Project, and shall cooperate with the City of Coos Bay Finance Director whenever necessary, for the purposes of preparing financial statements, audits, or other financial reports, made necessary by or required under the Financing Documents.

The foregoing ordinance was enacted by the City Council of the City of Coos Bay this 7th day of March, 2000.

Yes: Councilors Jeff McKeown, Cindi Miller, Don Spangler, Kevin Stufflebean, and
Judy Weeks

No: None

Absent: Mayor Joanne Verger and Councilor Joe Benetti

Joanne Verger
Mayor of the City of Coos Bay
Coos County, Oregon

ATTEST:

Joyce Jansen
Deputy Recorder of the City of Coos Bay
Coos County, Oregon