

ORDINANCE NO. 62**AN ORDINANCE PROVIDING FOR THE ISSUING OF GENERAL OBLIGATION IMPROVEMENT WARRANTS IN PARTIAL PAYMENT OF PUBLIC IMPROVEMENT WORK UNDER CERTAIN CONDITIONS; AND REPEALING ORDINANCE NO. 2271 AND 2780.**

The City of Coos Bay Ordains as follows:

Section 1. Estimate of Work Completed; Basis of Partial Payments. If the city enters into a contract for the construction of a public improvement within the city, the cost of which is to be assessed against the property benefited by the improvement, and performance has been in good faith commenced by the contractor who executed the contract, the City Engineer shall make a monthly written estimate, based upon the contract price, of the value of the completed work. The estimate shall be made to the City Manager. Based on the estimate, partial payment, less any amounts previously paid, shall be made to the contractor. Payment in excess of 90 percent of the total value of the completed work shall not be made prior to the completion and final acceptance, by the Council, of all work under the contract.

Section 2. Withholding Upon Default. If the contractor is in default under any of the contract provisions at the time the monthly estimate is made, the city may withhold any partial payment otherwise due, pending removal of the default by the contractor, or the enforcement of any rights accruing to the city under the contract or by reason of the default. Neither the making withholding of a partial payment shall invalidate any of the provisions of the contract, or release the surety on the contract.

Section 3. Minimum Amount for Payment. If the amount due the contractor under the estimate for any given month is less than \$300.00, no payment shall be made for that month.

Section 4. Form of Payment; General Obligation Warrant. The partial payment shall be made by delivery to the contractor of a general obligation warrant or warrants drawn against a special fund created as provided by ORS 287.502 to ORS 287.515, for the payment of the cost of the improvement for which the general obligation warrant may be issued. The warrant or warrants shall be issued only in amounts authorized by this ordinance. The warrants shall be in convenient denominations and bear interest from their dates, at a rate to be determined by Council resolution.

Section 5. Payment Not Approved. The partial payments by warrant do not constitute acceptance or approval of any part of the work covered by the payment and do not relieve the contractor surety of responsibility for defective workmanship or material, or for any breach of the contract, nor shall the partial payment operate as a waiver of any right against the contractor or surety which the city might have if the partial payment had not been made.

Section 6. Repeal. Ordinance No. 2271, enacted August 22, 1966, as amended by Ordinance No. 2780, enacted November 27, 1978, are repealed.

Passed by the Council and approved by the Mayor January 27, 1986.