

ORDINANCE PROVIDING FOR SALE
OF SEWER BONDS TO FmHA

ORDINANCE NO. 108

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF LAKESIDE, OREGON REVENUE SEWER BONDS IN THE PRINCIPAL SUM OF \$115,000 TO FARMERS HOME ADMINISTRATION FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF EXTENSION, CONSTRUCTION AND IMPROVEMENT OF THE SEWER SYSTEM WITHIN THE BOUNDARIES OF THE CITY OF LAKESIDE, OREGON; PROVIDING FOR THE FORM AND TERMS OF THE BONDS, AUTHORIZING THE PAYMENT OF SAME, AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Lakeside, Oregon (the "City"), has been duly authorized by Resolution No. 86-3, dated March 20, 1986 to issue revenue sewer bonds in an amount not to exceed the sum of \$115,000, for the extension, construction and improvement of the sewer system within the City, hereinafter called the "Facility", and,

WHEREAS, Notice of the Resolution was published March 28, 1986 in The World newspaper, a newspaper of general circulation in the City in the same manner as other public notices of the City, and,

WHEREAS, on or about May 29, 1986, the Lakeside City Council found that no petitions were filed requesting the City to refer the matter to a vote, and

WHEREAS, the City Staff has been directed to proceed in accordance with law to issue the Bonds, and concurrently therewith and subsequent thereto the City has commenced negotiations with the Farmers Home Administration of the United States Department of Agriculture, hereinafter called the "Government", for financial assistance to construct the Facility, and,

WHEREAS, Farmers Home Administration has indicated a desire to consider financial assistance and as a result, it is necessary to cause the execution and delivery of installment bonds or other evidence of indebtedness to secure any loan or loans made by the Government and to comply with any requirements, terms and conditions prescribed by the Government or by Government regulations and to execute contracts or enter into agreements and to take any and all other action as may be necessary, incidental or appropriate to finance the extension, construction and improvement of the Facility for and on behalf of the City; now, therefore,

THE CITY OF LAKESIDE, OREGON, ORDAINS AS FOLLOWS:

Section 1. It is necessary to defray a portion of the costs of the extension and construction of the Facility by obtaining a loan to be made by the Government in accordance with the applicable provisions of the Rural Development Act of 1972, it being determined by the Government that the City is unable to obtain sufficient credit elsewhere to finance the Facility taking into consideration prevailing private and cooperative rates and terms concurrently available.

Section 2. That the City borrow \$115,000 and issue as evidence thereof a revenue installment sewer bond for the full principal amount of the loan. The bond shall be dated with the date of delivery thereof, and shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF OREGON
COUNTY OF COOS
CITY OF LAKESIDE, OREGON

REVENUE INSTALLMENT SEWER BOND NO. _____

The City of Lakeside, Coos County, Oregon, hereinafter called the "Borrower", hereby acknowledges itself indebted and for value received, promises to pay to the order of the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture, hereinafter called the "Government", the principal sum of \$115,000, plus interest on the unpaid principal balance at the rate of _____% per annum. The principal and interest shall be payable in the following installments on or before the following dates:

The sum of \$ _____ annually on the _____ day of _____ until the principal and interest are fully paid, except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable forty (40) years from the date of this Bond. Unpaid accrued interest shall be paid on the _____ day of _____ of each year and the amount of interest so paid shall be due on the next succeeding _____ day of _____.

All or part of the outstanding bond installments may be paid in inverse order on any interest payment date without premiums.

This Bond shall be registered as to principal and interest in the name of the United States of America in an appropriate book in the Office of the Recorder of the Borrower, each registration to be noted on the back hereof by the Recorder and no transfer hereof shall be valid unless made on such book and similarly noted on the back hereof.

Both the principal and interest shall be paid to the United States of America as such registered holder at the Office of the Farmers Home Administration serving Coos County.

Default hereunder shall constitute default under any other instrument evidencing a debt of Borrower owing to or insured by the Government or securing or otherwise relating to such a debt, and default under any other such instrument shall constitute default hereunder upon default and Government in its option may declare all or any part of such indebtedness immediately due and payable.

This Bond is given as evidence of a loan to Borrower made by the Government pursuant to the Rural Development Act of 1972, as amended, and shall be subject to the present regulations of the Farmers Home Administration and to its future regulations not inconsistent with the express provisions hereof.

This Bond is authorized by virtue of Resolution No. 86-3 adopted by the City Council on March 20, 1986 and approved by the mayor of the City on March 20, 1986, notice of which was duly published pursuant to the Uniform Revenue Bond Act of the State of Oregon, and the Charter of the City of Lakeside, Oregon, and laws amendatory thereof and supplemental thereto.

This Bond and the interest thereon are payable solely from the net revenues of the sewer utility system of the City of Lakeside, Oregon, and neither the bond nor the payment of interest impose any general liability upon the City for the payment thereof out of any monies other than net revenues of the sewer utility system. It is hereby covenanted by the City, that so long as this Bond shall be outstanding and unpaid, or until there shall have been set apart solely for that purpose sums sufficient to pay when due the entire principal sum hereof together with interest accrued, or to accrue thereon, the City Council of the City of Lakeside, Oregon, shall fix and collect charges for sewer services, such as to provide revenue sufficient to pay, as the same shall become due, the principal and interest of this Bond, in addition to paying, as the same become due, the necessary expenses of operating, maintaining, renewing and replacing the sewer utility system of the City, and appropriate reserve funds for such purposes and all other obligations and indebtedness payable out of the revenues of the sewer system.

This Bond is exchangeable at the sole expense of the Borrower at any time, upon ninety (90) days written notice, at the request of the registered owner hereof, and upon surrender of this Bond to Borrower at the Office of the Recorder of the Borrower for registered bonds of the denomination of \$5,000 each, or integral multiples thereof, in the aggregate principal amount equal to the unpaid principal amount of the bond, and bearing interest on the unpaid principal balances at the interest rate hereof.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this Bond have existed, have happened, and have been performed in due time, form and manner as required by law, that the amount of this Bond, together with all obligations of the Borrower, does not exceed any limits prescribed by the Constitution and Statutes of the State of Oregon and the Charter and Ordinances of the City of Lakeside, Oregon.

IN WITNESS WHEREOF, the City of Lakeside, Oregon, has caused this Bond to be signed by the Mayor of the City and its corporate seal to be affixed hereto and attested by the Recorder of the City, all on the _____ day of _____, 19__.

CITY OF LAKESIDE
COOS COUNTY, OREGON

By Pat Bernier
Mayor

ATTEST:

City Recorder

Bond Registration

Date

Registered in Name of:

United States of America, Farmers Home Administration

City Recorder

Section 3. The net revenues of the sewer system after payment of the ordinary operation and maintenance expenses thereof, hereby is pledged to the payment of the principal of and interest upon the bonds.

Section 4. The City Recorder shall be the custodian of all funds of the Facility and all funds shall be deposited in the bank which is a member of the Federal Deposit Insurance Corporation. The Recorder shall execute a Fidelity Bond in an amount not less than \$50,000 with a surety company approved by the Farmers Home Administration and the United States of America, acting through the Farmers Home Administration, shall be named as co-obligee in such bond and the amount thereof shall not be reduced without the prior written consent of Farmers Home Administration. The City Recorder is hereby directed to establish the following accounts into which the current funds of the Facility, the bond proceeds, the revenues from the Facility and other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the bonds hereby authorized remain unpaid.

Revenue Account. As soon as the Facility becomes revenue producing, the gross revenues shall be set aside into a separate account to be designated the Revenue Account, and monies so deposited therein shall be expended and used only in the manner and order as follows:

1. Operation and Maintenance Account (bookkeeping account). There shall be set aside and deposited each month, before any other expenditures therefrom, a sufficient portion of the monies in the Revenue Account to pay the reasonable and necessary current expenses of operating and maintaining the Facility for the current month.

2. Debt Service Account (bookkeeping account). After the transfer required in item 1 above, there shall be transferred each month from the Revenue Account, before any other expenditures, or transfer therefrom, and deposited in the Debt Service Account for payment of the annual installment of the bond, a sum equal to at least one-twelfth of the annual principal and interest installment becoming due on the next succeeding _____ day of _____. If the City for any reason shall fail to make such monthly deposit, then an amount equal to the deficiency shall be set apart and deposited in the Debt Service Account out of the gross revenues in the ensuing month or months, which amount shall be in addition to the regular monthly deposit required during such succeeding month or months.

Whenever there shall accumulate in the Debt Service Account amounts in excess of the requirements during the next twelve months for paying principal and interest on outstanding bond installments, and in the Operation and Maintenance

Account and the Reserve Account hereinafter established amounts in excess of the requirements thereof, such excess may be used by the City to make prepayments on the bond.

3. Reserve Account (bookkeeping account). Out of the balance of income and revenue in the Revenue Account remaining after the transfers required in items 1 and 2 above have been made, there shall be set aside and deposited in the Reserve Account the sum of \$ 825 annually until there is accumulated in that fund the sum of \$8,250, after which no further deposits need be made into this account except to replace withdrawals. The Reserve Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the Facility which may be caused by any unforeseen catastrophe and when necessary for the purpose of making payments of principal and interest on the bonds hereby authorized in the event the amount of the Debt Service Account is insufficient to meet such payments. Whenever disbursements are made from this account, the deposits shall be resumed until there is again accumulated the amount of \$8,250, at which time deposits may be again discontinued.

Section 5. The City covenants and agrees that so long as the bond hereby authorized remains unpaid;

(a) it will indemnify the Government for any payments made or losses suffered by the Government as a result of or in connection with the Facility.

(b) It will comply with applicable State laws and regulations and continually operate and maintain the Facility in good condition.

(c) It will impose and collect such rates and charges for use of the Facility that gross revenues will be sufficient at all times to provide for the operation and maintenance thereof and the payments on the bonds hereby authorized and the maintenance of the various funds herein created; that all use of the Facility shall be subject to the full rates prescribed in the rules and regulations of the City; and that no free use of the Facility will be permitted.

(d) It will maintain complete books and records relating to the operation of the Facility and its financial affairs and will cause such books and records to be audited annually at the end of each fiscal year and an audit report prepared, and will furnish Farmers Home Administration, without request, a copy of each annual audit report. At all reasonable times Farmers Home Administration shall have the right to inspect the Facility and the records, account and data of the City relating thereto.

(e) It will maintain such insurance coverage as may be required by Farmers Home Administration.

(f) It will not borrow money from any source or enter into any contract or agreement or incur any other liabilities in connection with making extensions or improvements to the Facility exclusive of normal maintenance without obtaining the prior written consent of the Farmers Home Administration.

(g) It will not dispose of nor transfer its title to the Facility or any part thereof, including lands and interest in lands, by sale, mortgage, lease, or other encumbrance, without obtaining prior written consent of Farmers Home Administration.

(h) It will cause to be levied and collected such sewer user rates and charges as may be necessary to operate and maintain the Facility in good condition and meet payments on the bonds when the same become due if, for any reason, gross revenues are insufficient.

Section 6. If at any time it shall appear to the Government that the City is able to refinance the amount of the bond then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the City will, upon request of the Government, apply for and accept such loan in sufficient amount to repay the Government and will take all such actions as may be required in connection with such loan.

Section 7. The proceeds of the Bonds shall be used and invested in such manner that the Notes shall not become "arbitrage bonds" within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, and the regulations issued thereunder. The City agrees to comply with all applicable provisions of H.R. 3838 as passed by the United States House of Representatives September 25, 1986 and the United States Senate on September 27, 1986 unless, in the opinion of Bond Counsel, such compliance is not required in order to maintain the exemption of interest on the Notes from Federal income taxation.

Section 8. The Mayor and the City Recorder are hereby authorized and directed to execute for and on behalf of the City form FmHA 400-1 entitled "Equal Opportunity Agreement", form FmHA 400-4 entitled "Assurance Agreement", as required by the provisions of Title VI of the Civil Rights Act of 1964, and form FmHA 1942-47, "Loan Resolution".

Section 9. The Council desires and deems it necessary and advisable for the immediate preservation of the health, peace and safety of the City of Lakeside, Oregon that this Ordinance become effective at once, for the reason that the sewer facilities of the

City are inadequate to meet its needs and plans for the extension, construction and improvements must be commenced at once in order to be ready for use as soon as possible and, therefore, an emergency is hereby declared to exist and this Ordinance shall be in full force and effect from and after its passage and approval.

Passed by the Council the 16TH day of OCTOBER, 1986.

AYES: 4

NAYS: -0- ABSENT: 3

Submitted to and approved by the Mayor this 17TH day of OCTOBER, 1986.

Pat Korman
Mayor

ATTEST:

Bruce N. Bennett
City Recorder