

ORDINANCE No. 89-0-445

AN ORDINANCE OF THE CITY OF BROOKINGS, OREGON, AUTHORIZING THE ISSUANCE OF SEWER BOND ANTICIPATION NOTES, SERIES 1989, IN AN AMOUNT OF \$750,000 FOR THE FINANCING OF PART OF THE SEWER PROJECT.

WHEREAS, the electors of the City authorized the issuance of general obligation bonds in an amount not to exceed \$3,200,000 at an election duly conducted on August 9, 1988, to provide funds with which to finance acquisition and construction of improvements to the sewer system servicing the City (the sewer system improvements being referred to herein as the "Project"); and

WHEREAS, the City anticipates issuance of its general obligation bonds for the Project (the "Bonds") in April of 1991 and will incur prior to that time costs for the Project; and

WHEREAS, Oregon Revised Statutes 287.522 through 287.526 authorize the City to borrow money and issue its notes for the interim financing of public improvements and to determine the method and terms of sale, upon determining that certain conditions have been met; and

WHEREAS, this Council finds that notes issued pursuant to this authority shall not exceed in the aggregate the estimated unpaid cost of the public improvements and that the maturity date of the notes herein authorized is not later than the completion date of the improvement to be financed;

THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

1. Notes Authorized. The City Council authorizes the issuance of Sewer Bond Anticipation Notes, Series 1989 (the "Notes") in a principal amount of \$750,000 pursuant to ORS 287.522, as amended, for the purpose of funding the interim construction of the Project and the costs of issuing these Notes. The Notes shall be dated April 1, 1989, shall mature on April 1, 1991, and shall bear interest from their dated date payable on April 1 and October 1 of each year commencing on October 1, 1989, until maturity or earlier redemption, at the rate of 7.00% per annum. The Notes shall be in denominations of \$ 5,000.

Interest on the Notes and, upon presentation and surrender thereof, the principal thereof shall be payable in lawful money of the United States of America by check or draft by United States National Bank of Oregon, Portland, Oregon, the City's paying agent, or its successor. Interest shall be payable on each interest payment date to the person in whose name the Note is registered at the close of business on the 15th day (whether or not a business day) of the immediately preceding month. Interest on the Notes shall cease at maturity or on a date prior thereto on which the Notes have been

duly called for redemption unless the holder thereof shall present the same for payment and payment is refused.

2. Redemption. The City reserves the right to redeem all or any portion of the Notes on April 1, 1990, and on any date thereafter, at par plus accrued interest to the redemption date. If less than all Notes are redeemed then the Notes to be redeemed shall be selected by the Registrar by lot.

Unless waived by any registered owner of Notes to be redeemed, official notice of any such redemption shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by registered or certified mail at least 30 days prior to the date fixed for redemption to the registered owner of the Note or Notes to be redeemed at the address shown on the Register or at such other address as is furnished in writing by such registered owner to the Registrar.

All official notices of redemption shall be dated and shall state:

- (1) the redemption date,
- (2) the redemption price,
- (3) if less than all outstanding Notes are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed,
- (4) that on the redemption date the redemption price will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and
- (5) the place where such Notes are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Registrar.

Prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Notes or portions of Notes which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Notes or portions of Notes so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Notes or portions of Notes shall cease to bear interest. Upon surrender of such Notes for redemption in accordance with such notice, such Notes shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of

any Bond, there shall be prepared for the registered owner a new Note or Notes of the same maturity in the amount of the unpaid principal. All Notes which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

In addition to the foregoing notice, further notice shall be given as may be otherwise required by law. No defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

3. Security. The Notes are payable only from the proceeds of the sale of the Bonds as previously authorized and from other funds available therefor.

4. Sale of Notes. The Mayor and Recorder of the City are hereby authorized and directed to prepare and execute the Notes in the manner hereinafter specified, to cause the Notes to be registered and authenticated with United States National Bank of Oregon, Portland, Oregon (the "Registrar"), and to deliver the Notes to First Interstate Bank of Oregon, N.A., Portland, Oregon (the "Purchaser"), upon payment of the purchase price of \$745,500.

5. Temporary Notes. The Notes herein authorized may be issued as one or more temporary Notes, which may be typewritten and exchanged for definitive Notes when available.

6. Form and Denomination. The Notes shall be executed on behalf of the City with the manual ^{or facsimile} signature of the Mayor, sealed with the seal of the City and attested by the Recorder.

The Notes shall not be valid or prove obligatory for any purpose or be entitled to any security or benefit under this Ordinance until the Certificate of Authentication thereon shall have been dated and executed by manual ^{or facsimile} signature of a duly authorized officer or employee of the Bond Registrar. The Notes shall be issued substantially in the form as set forth in Exhibit A hereto and in such names and such denominations as requested by the Purchaser.

7. Authentication, Registration and Transfer.

(1) All Notes shall be in registered form. The City hereby appoints United States National Bank of Oregon, Portland, Oregon, to serve as paying agent and registrar for the Notes (the "Registrar"). A successor Registrar may be appointed for the Notes by ordinance or resolution of the City. The Registrar shall provide notice to Note owners of any change in the Registrar not later than the interest payment date following the change in Registrar.

(2) No Note shall be entitled to any right or benefit under this Ordinance unless it shall have been authenticated by an authorized officer or

employee of the Registrar. The Registrar shall authenticate all Notes to be delivered at closing of this Note issue, and shall additionally authenticate all Notes properly surrendered for exchange or transfer pursuant to this Ordinance and any Note issued in lieu of any mutilated, destroyed, lost or stolen Notes.

(3) The ownership of all Notes shall be entered in the Note register maintained by the Registrar, and the City and the Registrar may treat the person listed as owner in the Note register as the owner of the Note for all purposes.

(4) The Registrar shall mail each interest payment on each interest payment date to the name and address of the Note owner as they appear on the Note register at the close of business on the fifteenth day, whether or not a business day, of the month preceding an interest payment date (the "Record Date"). If payment is so mailed, neither the City nor the Registrar shall have any further liability to any party for such interest payment. The principal of the Notes shall be payable at the office of the Registrar upon presentation and surrender of the Note.

(5) Notes may be exchanged for an equal principal amount of Notes of the same maturity which are in different denominations, and Notes may be transferred to other owners if the Note owner submits the following to the Registrar:

(a) written instructions for exchange or transfer satisfactory to the Registrar, signed by the Note owner or his attorney in fact and guaranteed or witnessed in a manner satisfactory to the Registrar; and

(b) the Notes to be exchanged or transferred.

(6) The Registrar shall not be required to exchange or transfer any Notes submitted to it during any period beginning with a Record Date and ending on the next following interest payment date; however, such Notes shall be exchanged or transferred promptly following that interest payment date.

(7) Each Note delivered under this Ordinance upon transfer or exchange for, or in lieu of, any other Note shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note, and each such Note shall be so dated that neither gain nor loss in interest shall result from such transfer, exchange or substitution. Each Note shall be dated by the Registrar as of date of delivery of the Note.

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(8) For purposes of this Section, Notes shall be considered submitted to the Registrar on the date the Registrar actually receives the materials described in subsection (5) of this Section 7.

(9) The District may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Note owners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

8. Construction Account. The proceeds of the Notes hereby authorized shall be deposited in the Sewer Construction Account created hereunder (the "Construction Account"). The amounts in the Construction Account exceeding the insurance available from the Federal Deposit Insurance Corporation shall be secured by the depository bank in accordance with State and Federal law. Withdrawals from the Construction Account shall be made only on checks signed by the City Manager as authorized by the Council, and only for the purposes for which the Notes were issued as specified in the estimate of costs, including costs of issuance of the Notes. The City's share of any liquidated damages and other moneys paid by defaulting contractors or the sureties shall be deposited in the Construction Account to assure completion of the Project. When the construction of the Project has been completed, or all construction costs have been paid in full, any balance remaining in the Construction Account shall be used immediately to pay or apply on the payment of any such Notes as may thereafter fall due, or, if said Notes have been paid from the proceeds of the sale of its bonds, then the balance shall be applied to the payment of the bonds in the manner prescribed by the ordinance authorizing the bonds.

9. Other Documents and Proceedings. The officers of the City are hereby authorized and directed to execute and carry out or cause to be carried out the obligations which are necessary or advisable in connection with this Ordinance and the issuance, sale and delivery of the Notes, including, but not limited to, agreements with financial institutions to serve as paying agent and registrar in accordance with Section 7 hereof. The officers of the City are further authorized and directed to prepare and furnish to the attorneys passing on the legality of the Notes, certified copies of all proceedings, ordinances, resolutions and records and all such certificates and affidavits and other instruments as may be required to evidence the legality and marketability of the Notes, and all certified copies, certificates, affidavits and other instruments so furnished shall constitute representations of the City as to the correctness of all facts stated or recited therein.

10. Tax Covenants. The City covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Notes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The City will not directly or indirectly use or permit the use of any proceeds of the Notes or any other funds of the City, or take

13. Emergency Ordinance. In that there is an emergency need to raise funds to pay for part of the cost of the Project as soon as possible so that the Project may proceed to completion, this Ordinance shall take effect and be in full force from and after its passage and approval.

PASSED by the unanimous vote of the Council, with a quorum in attendance, this 3rd day of April, 1989.

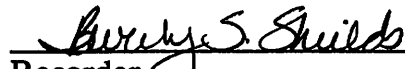
APPROVED by the Mayor this 3rd day of April, 1989.



Mayor

Executed this 4th day of April, 1989.

ATTEST:



Recorder

EXHIBIT A - FORM OF NOTE

R- _____

\$ _____

UNITED STATES OF AMERICA
CITY OF BROOKINGS
CURRY COUNTY, OREGON

SEWER BOND ANTICIPATION NOTE, SERIES 1989

INTEREST RATE MATURITY DATE DATED DATE CUSIP

Registered Owner:

Principal Owner:

THE CITY OF BROOKINGS, OREGON (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the registered owner specified above, or registered assigns, the principal amount specified above on the above maturity date together with interest thereon from the dated date indicated above at the rate per annum indicated above. Interest accruing is payable on April 1 and October 1 of each year commencing on October 1, 1989. Interest on this Note is payable through the office of United States National Bank of Oregon, Portland, Oregon, the City's paying agent and registrar (the "Registrar") by check or draft mailed to the name and address of the registered owner as it appears on the Note register on the fifteenth day of the month prior to the date on which interest comes due. Note principal is payable upon presentation and surrender of this Note to the Registrar.

The Notes are issuable in the form of registered Notes without coupons in the denominations of \$ 5,000 or any integral multiple thereof. Notes may be exchanged for Notes of the same aggregate principal amount, but different authorized denominations.

Any transfer of this Note must be registered, as provided in the ordinance of the City authorizing the issuance of the Notes adopted on April 3, 1989 (the "Ordinance"), upon the Note register kept for that purpose at the office of the Registrar. The City and the Registrar may treat the person in whose name this Note is registered as its absolute owner for all purposes, as provided in the Ordinance.

The Note owner may exchange or transfer any Note only by surrendering it, together with a written instrument of exchange or transfer which is satisfactory to the

Registrar and duly executed by the registered owner or his duly authorized attorney, at the office of the Registrar in the manner and subject to the conditions set forth in the Ordinance.

This Note is one of the Sewer Bond Anticipation Notes, Series 1989, of the City, issued in the aggregate principal amount of \$750,000 and is issued by the District pursuant to Oregon Revised Statutes 287.522 through 287.526 for the purpose of providing interim financing for improvements to the sewer system of the City (the "Project"). The electors of the City approved on August 9, 1988, the issuance of \$3,200,000 general obligations bonds by the City for the Project. The Notes are payable from the proceeds of such general obligation bonds to be sold on or prior to the date of maturity of the Notes or sooner upon completion of the Project, in an amount not to exceed \$3,200,000, and from other sources which the City may make available. The Notes have been issued in full and complete compliance with the Constitution and laws of the State of Oregon.

The Notes are subject to redemption or payment prior to maturity on April 1, 1990, and on any date thereafter, at par plus accrued to the redemption date. If less than all Notes are redeemed then the Notes to be redeemed shall be selected by the Registrar by lot.

Unless waived by any registered owner of Notes to be redeemed, official notice of any such redemption shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by registered or certified mail at least 30 days prior to the date fixed for redemption to the registered owner of the Note or Notes to be redeemed at the address shown on the Register or at such other address as is furnished in writing by such registered owner to the Registrar. Notice of redemption having been given as aforesaid, the Notes or portions of Notes so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Notes or portions of Notes shall cease to bear interest. Upon surrender of such Notes for redemption in accordance with such notice, such Notes shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Note or Notes of the same maturity in the amount of the unpaid principal.

The Notes have been designated by the City as "qualified tax-exempt obligations" for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to be performed precedent to and in the issuance of this Note have existed, have happened, and have been performed in due time, form and manner as required by the Constitution and statutes of the State of Oregon; and that the issue of which this Note is a part, and all other obligations of such City, are within every debt limitation and other limit prescribed by such Constitution and statutes.

CITY OF BROOKINGS, OREGON

SEAL

Mayor

ATTEST:

Recorder

**THIS NOTE SHALL NOT BE VALID UNLESS
PROPERLY AUTHENTICATED BY THE
REGISTRAR IN THE SPACE INDICATED BELOW.**

DATED: _____

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This is one of the City's Sewer Bond
Anticipation Notes, Series 1989, issued
pursuant to the Ordinance described herein.

United States National Bank of Oregon, as Registrar

By _____
Authorized Individual

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

Please insert social security or other
identify number of assignee

the within Note and does hereby irrevocably constitute and appoint as attorney to transfer this Note on the books kept for registration thereof with the full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the registered owner as it appears upon the face of the within Note in every particular, without alteration or enlargement or any change whatever.

NOTICE: Signature(s) must be guaranteed by a member of the New York Stock Exchange or a commercial bank or trust company.

Signature Guaranteed

(Bank, Trust Company or Firm)

Authorized Officer

The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM -- tenants in common

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship
and not as tenants in common

OREGON CUSTODIANS use the following:

_____ CUST UL OREG
as custodian under the laws of Oregon for

_____ MIN
(Minor's name)