

ORDINANCE NO. 249

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF CITY OF BROOKINGS GENERAL OBLIGATION WATER BONDS IN THE PRINCIPAL SUM OF \$2,000,000.00 TO FARMERS HOME ADMINISTRATION FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION AND REPAIR OF A WATER WORKS AND WATER WORKS SYSTEM WITHIN AND WITHOUT THE BOUNDARIES OF THE CITY OF BROOKINGS, OREGON; PROVIDING FOR THE FORM AND TERMS OF SAID BONDS, AUTHORIZING THE PAYMENT OF SAME, AND DECLARING AN EMERGENCY.

WHEREAS, the Council hereby determines that Chapter XV, Sections 61 through 63, inclusive, of the Charter of the City of Brookings authorizes and empowers the Council of the City of Brookings to issue and sell water bonds in an amount not to exceed \$2,000,000.00 to provide funds to be used for the acquisition, construction and repair of a water works and water works system within and without the boundaries of the City of Brookings, Oregon, hereinafter called "Facility," and the Council further determines that there remain authorized and unissued pursuant to said Charter provisions bonds in the amount of \$2,000,000.00, and

WHEREAS, said bond authorization was duly published, advertising the sale of \$2,000,000.00 of said bonds, and there were no bids received for the purchase of said bonds at the time designated for the receipt of such bids; 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 "Government," for financial assistance to construct said Facility, and

WHEREAS, said Farmers Home Administration has indicated a desire to consider said financial assistance and as a result, it is necessary to cause the execution and delivery of installment bonds or other evidence of indebtedness, or other appropriate security instrument, to secure any loan or loans made, or insured,

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, without limitation, to take any and all other action as may be necessary, incidental or appropriate to finance, construct, complete, equip and extend the Facility for and on behalf of the City; now, therefore,

THE CITY OF BROOKINGS, ORDAINS AS FOLLOWS:

Section 1:

The Council of the City of Brookings hereby declares its intention to issue and sell bonds in the aggregate principal amount of \$2,000,000.00 for the purpose of providing funds to be used for the acquisition, construction and repair of a water works and water works system within and without the boundaries of the City of Brookings, Oregon; and said Council hereby determines that said bonds have been duly authorized by the legal voters of the City of Brookings under the terms of Chapter XV, Sections 61 through 63, inclusive, of the Charter of the City of Brookings, and the Council hereby finds and determines that the bonded indebtedness as created will not be in excess of any limitation imposed by the Charter of the City of Brookings or the constitution and laws of the State of Oregon.

And the Council further determines that it is necessary to defray a portion of the costs of constructing and equipping the Facility by obtaining a loan made by the Government in accordance with applicable provisions of the Consolidated Farmers Home Administration Act of 1961, 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 currently available.

Section 2:

That the City borrow \$2,000,000.00 and issue as evidence thereof General Obligation Installment Water Bonds for the full principal amount of the loan. The bonds shall be dated with the dates of delivery thereof, and shall be in principal installments as follows:

<u>Proposed Issue and Delivery Date</u>	<u>Bond No.</u>	<u>Principal Installment</u>
January 25, 1974	1	\$317,000.00
January 25, 1974	2	500,000.00
January 25, 1974	3	200,000.00
June 1, 1975	4	500,000.00
June 1, 1975	5	483,000.00

The above maturity schedule, proposed issue and delivery dates and principal installment schedule is subject to modification to conform to engineer's estimate of cost payments, still to be ascertained, and to reduction of principal installments, if part of the issue is sold on competitive bid.

The bonds hereby authorized shall be in substantially the following form:

UNITED STATES OF AMERICA

STATE OF OREGON

COUNTY OF CURRY

CITY OF BROOKINGS, OREGON WATER BOND, SERIES OF 1973

GENERAL OBLIGATION INSTALLMENT WATER BOND

No. _____

KNOW ALL MEN BY THESE PRESENTS: That the City of Brookings, Curry County, 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 _____, plus interest on the unpaid principal balance at the rate of _____ percent per annum. The said principal and interest shall be payable in the following installments on or before the following dates:

Interest only on the first day of _____, and the sum of \$ _____ annually thereafter on the first day of _____ until the principal and said 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. In lieu of coupons evidencing semiannual interest, unpaid accrued interest shall be paid on the first day of _____ of each year and the amount of interest so paid shall be deducted from the next succeeding

installment of \$ _____ due the next succeeding first day of _____.

All or a part of the outstanding bond installments may be paid in inverse numerical order on any interest payment date without premiums except that bond proceeds remaining unused at the time construction is completed will be used immediately to pay installments on the bond in inverse numerical order 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 Borrower, each registration to be noted on the back hereof by said Recorder and no transfer hereof shall be valid unless made on said 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 Curry County, Oregon.

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 such other instrument shall constitute default hereunder, and upon default Government in its option may declare all or any part of said indebtedness immediately due and payable.

This Bond is given as evidence of a loan to Borrower made by the Government pursuant to the Consolidated Farmers Home Administration Act of 1961, 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 and issued by virtue of the majority vote of the legal voters of the City of Brookings, Oregon, voting at a special municipal election called and held on the 9th day of July, 1973, and by virtue of Ordinance No. _____ of the City of Brookings, Oregon, duly passed by the Council and approved by the Mayor of said City on January 8, 1974, pursuant to the Constitution and Laws of the State of Oregon and Chapter XV, Sections 61 through 63, inclusive, of the Charter of the City of Brookings, and laws amendatory thereof and supplemental thereto.

This Bond, with the interest thereon, is a general obligation of the City of Brookings, Oregon. For the punctual payment of this Bond both as to principal and interest thereon and for the levy and collection of taxes sufficient for that purpose, the full faith and credit of the City of Brookings are hereby irrevocably pledged, and in addition this Bond, both as to principal and interest, is payable from the net revenues of the municipal water facilities of said City.

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 bonds payable to bearer registered as to principal only of the denomination of \$1,000.00 each, in the aggregate principal amount equal to the unpaid principal amount of the bond, and bearing interest on the unpaid principal balance at the rate of _____ percent per annum.

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 Brookings, Oregon.

IN WITNESS WHEREOF, the City of Brookings, Oregon, has caused this Bond to be signed by the Mayor of said City and its corporate seal to be affixed hereto and attested by the Recorder of said City, all on the _____ day of _____, 1974.

CITY OF BROOKINGS, CURRY COUNTY, OREGON

By _____
Mayor

ATTEST:

Recorder

STATE OF OREGON }
County of Curry } ss.

I, MARJORIE B. MCKERNAN, the duly appointed, qualified and acting City Recorder of the City of Brookings, Oregon, do hereby certify that the foregoing copy, General Obligation Installment Water Bond, is a full, true and correct copy of the original and the whole thereof.

WITNESS MY HAND AND OFFICIAL SEAL this _____ day of _____, 1974.

(S E A L)

City Recorder

Section 3:

The bonds hereby authorized, together with the interest thereon, shall be payable from the net revenue to be derived from the operation of the Facility, and from property taxes, a sufficient

portion of which to pay the principal and interest as and when the same shall become due, is hereby pledged and shall be set aside for that purpose as specified in Section 4 hereof, and this pledge shall extend to and include any assessments that may be levied pursuant to Section 5(a) hereof.

Section 4:

The City Recorder shall be the custodian of all funds of the City and all funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The Recorder shall execute a fidelity bond in an amount not less than \$50,000.00, with a surety company approved by the Farmers Home Administration, and the United States of America 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 City, note proceeds, the revenues from the Facility and any other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the bond hereby authorized remains unpaid.

(a) Construction Account. The proceeds of the bonds hereby authorized shall be deposited in the Construction Account which shall be established as a "supervised bank account" as required by the Government. Amounts in the supervised bank account exceeding \$20,000.00 shall be secured by the depository bank in advance in accordance with the U. S. Treasury Department Circular No. 176. Withdrawals from the supervised bank account shall be made only on checks signed by the City Recorder of the City as authorized by the City Council from time to time countersigned by the County Supervisor of the Farmers Home Administration and only for the purposes for which said bonds were signed as specified in the estimate of costs. The City's share of any liquidated damages and other moneys paid by defaulting contractors of their sureties will be deposited in the Construction Account to assure completion of the project. When the construction of the Facility has been completed or all construction costs have been paid for in full, any balance remaining in the Construction Account shall be used immediately to pay outstanding installments on the bond in inverse numerical order without premiums. The Construction Account shall then be closed.

(b) Revenue Fund Account. As soon as the Facility becomes revenue-producing, the gross revenue shall be set aside into a separate account to be designated the Revenue Fund Account, and the moneys 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 income and revenue in the Revenue Fund 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 1. above, there shall be

transferred each month from the Revenue Fund Account, before any other expenditures or transfer therefrom and deposited in the Debt Service Account for payment of the annual installment of the bonds, a sum equal to at least one-twelfth of the annual installment becoming due on the next succeeding January 1.

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 each 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 installments, and in the Operation and Maintenance Account amounts in excess of the requirements thereof, such excess may be used by the City to make prepayments on the loan.

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 payments of 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 cause to be levied and collected such assessments 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.

(e) 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 time Farmers Home Administration shall have the right to inspect the Facility and the records, accounts and data of the City relating thereto.

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

(g) It will not borrow any 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 Farmers Home Administration.

(h) It will not cause or permit any voluntary dissolution of its organization, merge or consolidate with any other organization, dispose of or 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 the prior written consent of Farmers Home Administration.

(i) It will not modify or amend the City Charter or the Ordinances of the City in any manner relating to the Facility without the prior written consent of the Farmers Home Administration.

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 action as may be required in connection with such loan.

Section 7.

The Mayor and the City Recorder shall be and they are hereby authorized and directed to execute for and on behalf of the City Form FHA 400-1 entitled "Equal Opportunity Agreement," and Form FHA 400-4 entitled "Nondiscrimination Agreement," as required by the provisions of Title VI of the Civil Rights Act of 1964.

Section 8.

The provisions of this Ordinance shall constitute a contract between the City and the Government so long as any of the bonds hereby authorized remain unpaid.

Section 9.

This ordinance shall take effect and be in effect and force from and after the 8th day of January, 1974.

Section 10.

The Council desires and deems it necessary and advisable for the immediate preservation of the health, peace and safety of the City of Brookings that this ordinance become effective at once, for the reason that the water system of said town is inadequate to meet its needs, and plans for the new 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.

The foregoing Ordinance was duly passed by the Council and signed by the Mayor this 8th day of January, 1974.



Wilina M Kemp
Mayor

ATTEST:

Maureen B. McKernan
Recorder