

CITY OF BROOKINGS, CURRY COUNTY, OREGON  
ORDINANCE TO BORROW F. H. A. FUNDS

Ordinance number 193 passed and  
approved November 21, 1967.

An Ordinance authorizing the issuance and sale of revenue bonds to Farmers Home Administration for improving and extending city water system in an amount not exceeding \$350,000 in excess of any bonds heretofore authorized by Section 57 of the City Charter or otherwise, bearing interest not to exceed four and one half ( $4\frac{1}{2}$ ) per cent per annum, and authorizing the payment of annual water revenues for the payment of the same and declaring an emergency.

WHEREAS, the common council of the City of Brookings, Oregon, has been duly authorized by a charter amendment, which charter amendment authorized the issuance of \$885,000 bond issue, in excess of any existing bond issue, for the improvement of the city water system, hereinafter called facility, and

WHEREAS, said bond authorization sale was duly published advertising the sale of said bonds and that there were no bids received for the purchase of said bonds at the time designated for the receipt of such bids and that subsequent thereto the city has commenced negotiation with the Farmers Home Administration for the purchase of said bonds by way of application to 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 that as a result it is necessary to cause the execution and delivery of a installment bond or other evidence of indebtedness and a mortgage, 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, and equip the facility for and on behalf of the city;

NOW THEREFORE, the City of Brookings does ordain and resolve as follows:

Section 1: (Determination of Council) That it is necessary to defray a portion of the costs of constructing and equipping the facility by obtaining a loan made or insured by the government in accordance with applicable provisions of the Consolidated Farmers Home Administration Act of 1961, as amended, it being determined 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: (Terms of Loan) That the City borrow \$ 350,000 and issue as evidence thereof an installment bond in the form prescribed by the Farmers Home Administration for the full principal amount of the loan. The bond shall be signed by the Mayor, attested by the Recorder and the corporate seal of the City affixed thereto, and shall bear interest from

its date, which shall be the date of delivery, at the rate, 4½ % per annum; the principal and interest to be paid in annual amortized installments over a period of 40 years, beginning with the initial payment on January 1, 1969, and annually thereafter on January 1, until the principal and interest are fully paid except the final payment of the entire indebtedness, if not sooner paid, shall be due and payable 40 years from the date of the bond. Each payment shall be applied first to the payment of the accrued interest and second to the payment of the principal. Prepayments of any installment may be made in any amount at any time at the option of the City.

Section 3: (Pledge of Revenue) The bond hereby authorized, together with the interest thereon, shall be payable from the gross income and revenue to be derived from the operation of the facility, 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 (except that the interest becoming due and payable during the construction period and until the facility becomes revenue producing,) shall be paid from fees 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: (Protection and Disposition of Funds). The Recorder of the City 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 \$10,000.00 with a surety company approved by Farmers Home Administration and the United States of America shall be

named as a co-obligee in such bond and the amount thereof shall not be reduced without the prior written consent of Farmers Home Administration. The 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 note hereby authorized remains unpaid:

A. Acquisition and Development Account (Counter-signature Bank Account)

The proceeds of the bond hereby authorized, and at least the amount of \$33,000 shall be contributed by the City and 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 \$10,000.00 shall be secured by the depository bank in advance in accordance with U. S. Treasury Department Circular No. 176. Withdrawals from the supervised bank account shall be made only on checks signed by the Recorder of the City as authorized by the Council from time to time and countersigned by the County Supervisor of the Farmers Home Administration, and only for the purposes for which said note was issued as specified in the estimate of cost. There shall be transferred and paid from the Construction Account into the Debt Service Account, at least an amount sufficient to pay the interest due on the note accruing during the period of construction and until the facility becomes revenue producing. The City's share of any liquidated damages and other monies paid by defaulting contractors or 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 applied as an extra payment on the loan and the Construction Account shall be closed.

B. Revenue Fund Account (Private Bank Account of City)

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

1. Debt Service Account. (Bookkeeping Account) There shall be transferred each month from the Revenue Fund Account, before any other expenditure of transfer therefrom and deposited in the Debt Service Account for payment of the annual installment of the note, a sum equal to at least 1/12 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 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 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 loan.

2. Operation and Maintenance Account. (Bookkeeping Account) After the transfer required in (1) above, there shall

be set aside and deposited each month a sufficient portion of the balance of the income and revenue remaining in the Revenue Fund Account to pay the reasonable and necessary current expenses of operating and maintaining the facility for the current month.

3. Reserve Account. (Bookkeeping Account) Out of the balance of income and revenue in the Revenue Fund Account remaining after the transfers required in (1) and (2) above have been made, there shall be set aside and deposited in the Reserve Account the sum of \$ 150.00 each month until there is accumulated in that fund the sum of \$ 18,000, after which no further deposits need be made into said 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, for making extensions or improvements to the facility, and when necessary for the purpose of making payments of principal and interest on the note hereby authorized in the event the amount in the Debt Service Account is insufficient to meet such payments. Whenever disbursements are made from said account said monthly payments shall then be resumed until there is again accumulated the maximum amount of \$ 18,000, at which time payments shall be again discontinued.

Section 5: (Other Covenants and Agreements of the City).  
The City covenants and agrees that so long as the note hereby authorized remains unpaid:

(a) It will indemnify the Government for any payments made or losses suffered by the Government.

(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 payment of the operation and maintenance thereof and the installments on the bond 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 operated and maintain the facility in good condition and meet installments on the bond 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 audit report prepared, and will furnish Farmers Home Administration, without respect, 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, 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 without written consent of the Farmers Home Administration, if such changes affect this agreement.

Section 6: (Refinancing) 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: ("Equal Opportunity for Employment") The Mayor and Recorder 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", to which is attached and made a part thereof an "Equal Opportunity Clause", designated as Form FHA 400-2, to be incorporated in, or attached as a rider to, each construction contract involving \$10,000. or more, as required by the provisions of Executive Order No. 10925 as amended by Executive Order 11114, and Form FHA-4 entitled "Nondiscrimination Agreement" as required by the provisions of Title VI of the Civil Rights Act of 1964.

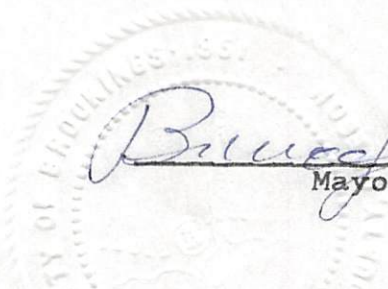
Section 8: (Resolution a Contract) The provisions of this ordinance and resolution shall constitute a contract between the City and the Government so long as the note hereby authorized remains unpaid.

Section 9: This ordinance shall take effect and be in force from and after the 21 day of November, 1967, being the date of its enactment.

Section 10: Emergency Clause, Inasmuch as the objects to be obtained by this ordinance will be of benefit to the people of the City of Brookings, and there exists an urgent necessity that this ordinance shall take effect as soon as possible so that the peace, health and safety of the City of Brookings may be preserved, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

Passed by the Common Council of the City of Brookings, Oregon, this 21 day of November, 1967.

Approved by the Mayor this 21 day of November, 1967

  
Bruce J. Hanley  
Mayor

Attest:

Robert O. Dimmick Jr.  
Recorder