

ORDINANCE NO. 3-1993

**ORDINANCE OF THE PORT OF NEWPORT AUTHORIZING
A LOAN FROM THE SPECIAL PUBLIC WORKS FUND BY
ENTERING INTO A LOAN CONTRACT WITH THE
OREGON ECONOMIC DEVELOPMENT DEPARTMENT
AND DECLARING AN EMERGENCY**

The Board of Commissioners (the "Governing Body") of the Port of Newport (the "Port") finds:

A. The Port is a "Port District" within the meaning of Oregon Revised Statutes 777.

B. Oregon Revised Statutes 285.700 through 285.753 (the "Act") authorizes any municipality to file an application with the Oregon Economic Development Department ("the Department") to obtain financial assistance from the Special Public Works Fund.

C. The Port has filed an application with the Department to obtain financial assistance for an "infrastructure project" within the meaning of the Act.

D. The Department has approved the Port's application for financial assistance from the Special Public Works Fund pursuant to the Act.

E. The Port is required, as a prerequisite to the receipt of financial assistance from the Department, to enter into Financial Assistance Award Contracts and Loan Agreements with the Department in substantially the form attached hereto.

F. The project described in Exhibit "A" to the Loan Agreement (the "Project") is an "infrastructure project" within the meaning of the Act which is needed by and is in the public interest of the Port.

G. Notice relating to the Port's consideration of the adoption of this Ordinance was published at least once in a newspaper of general circulation within the Port of Newport District. Such notice was published at least 14 days in advance of the adoption of this Ordinance.

NOW THEREFORE, BE IT RESOLVED, by the Governing Body of the Port as follows:

1. Loan Authorized. The Governing Body of the Port authorizes the President to execute the Financial Assistance Award Contract, Loan Agreement, the Promissory Note attached as Exhibit "F" to the Loan Agreement, and such other documents as may be required to obtain financial assistance including a loan from the Department on the condition that the principal amount of the loan from the Department to the Port is not in excess of \$298,500.00 and the interest rate on such loan is not in excess of 6.5 percent. The proceeds of the loan from the Department shall be applied solely to the "Costs of the Project" as such term is defined in the Loan Agreement.

2. Security. To the extent permitted by law, amounts payable by the Port shall be payable from the sources described in Section 3.09 of the Loan Agreement and Oregon Revised Statutes 285.723(2) which include:

- a. any sources of funds that are legally available to the Port.
- b. the revenues, if any, of the Project, including special assessment revenues, if any, and
- c. the Port's general fund including the general revenues of the Port, other funds which may be available for such purpose and a pledge of the Port's taxing power within the restrictions of Article XI, Section 11 of the Constitution of the State of Oregon. The obligation of the Port to make payments pursuant to the Loan Agreement is a full faith and credit obligation of the Port and is not subject to annual appropriation.

3. Additional Documents. The President is hereby authorized to enter into any agreements and to execute any documents or certificates which may be required to obtain financial assistance from the Department for the Project pursuant to the Financial Assistance Award Contract and the Loan Agreement.

4. Tax-Exempt Status. The Port covenants not to take any action or omit to take any action if the taking or omission would cause interest paid by the Port pursuant to the Loan Agreement not to qualify for the exclusion from gross income provided by Section 103(a) of the Internal Revenue Code of 1986, as amended. The Port shall not permit more than ten percent of the Project to be used for any private business use. The President of the Port may enter into covenants on behalf of the Port to protect the tax-exempt status of the interest paid by the Port pursuant to the Loan Agreement and may execute any Tax Certificate, Internal Revenue Service forms or other documents as shall be required by the Department or their bond counsel to protect the tax-exempt status of such interest.

5. Reimbursement Bonds. The Port may reimburse expenditures for the Project with amounts received from the Department pursuant to the Financing Documents. Additionally, the Port understands that the Department may fund or

reimburse itself for the funding of amounts paid to the Port pursuant to the Financing Documents with the proceeds of bonds issued by the State of Oregon pursuant to the Act. This Ordinance shall constitute "official intent" within the meaning of Section 1.103-18 of the Income Tax Regulations promulgated by the United States Department of the Treasury with respect to the funding or the reimbursement for the funding of the costs of the Project with the proceeds of the Port's loan pursuant to the Financing Documents and with the proceeds of any bonds issued by the State of Oregon pursuant to the Act.

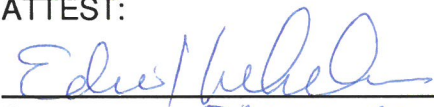

6. Declaration of Emergency. The Governing Body declares that an emergency exists in order that there be no delay in financing the Project as provided in this Ordinance. Therefore, this Ordinance shall be in force and effect immediately from and after passage by the Governing Body.

DATED this 15th day of June, 1993.

PORT OF NEWPORT


President

ATTEST:


Ass't Secretary 
TREASURER