

ORDINANCE NO. 1-1980

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF PORT OF NEWPORT, OREGON, INSTALLMENT REVENUE BONDS (SOUTH BEACH MARINA PROJECT, SERIES A) IN THE SUM OF \$2,200,000 AND SERIES B IN THE SUM OF \$500,000 TO FARMERS HOME ADMINISTRATION FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF ACQUISITION, CONSTRUCTION AND EQUIPPING OF A MARINA FACILITY FOR USE BY SPORTS FISHERMEN AND BOATERS WITHIN AND WITHOUT THE BOUNDARIES OF THE PORT OF NEWPORT, OREGON; PROVIDING FOR THE FORM AND TERMS OF SAID BONDS, AUTHORIZING THE PAYMENT OF SAME, APPOINTING A TRUSTEE, AND DECLARING AN EMERGENCY.

WHEREAS, the Port of Newport, Lincoln County, Oregon, (the "Port") is authorized by ORS Chapter 777 to issue Installment Revenue Bonds in an amount not to exceed the sum of \$2,700,000, in excess of any existing bond issue, for the construction, acquisition, reconstruction, repair, extension and improvement of a part of a Port Marina facility for use by sports fishermen and boaters within and without the Port of Newport, Oregon, such part being hereinafter called "Facility", and

WHEREAS, the Port 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, the Farmers Home Administration has indicated a willingness to provide such financial assistance and as a result, it is necessary to cause the execution and delivery of an installment bond to secure 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, 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 Port, now therefore,

THE PORT OF NEWPORT, OREGON ORDAINS AS FOLLOWS:

Section 1. (DETERMINATION OF PORT COMMISSION). It is necessary to defray a portion of the costs of acquiring, 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 1972, it being determined by the Government that the Port 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). The Port shall borrow \$2,200,000 and issue as evidence thereof its Installment Revenue Bonds (South Beach Marina Project, Series A) ("Bonds") for the full principal amount of the loan. In addition, the Port shall borrow an additional amount not to exceed \$500,000, and issue as evidence thereof its Installment Revenue Bonds (South Beach Marina Project, Series B) for the full principal amount of such additional loan. This first bond of this Series A shall be dated the date of delivery thereof, or within 30 days of the proposed issue and delivery date shown below, and shall be in the principal installment as follows:

<u>PROPOSED ISSUE AND DELIVERY DATE</u>	<u>PROPOSED MATURITY DATE</u>	<u>PRINCIPAL AMOUNT</u>
May 12, 1980	May 12, 2010	\$1,250,000

The Bond shall be in substantially the following form and the terms therein are hereby adopted, approved and incorporated as part of this Ordinance:

NO. 1 UNITED STATES OF AMERICA
 STATE OF OREGON
 COUNTY OF LINCOLN
 PORT OF NEWPORT, OREGON
 INSTALLMENT REVENUE BOND
(SOUTH BEACH MARINA PROJECT, SERIES A)

The Port of Newport, Lincoln 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 One Million Two Hundred Fifty Thousand Dollars (\$1,250,000), plus interest on the unpaid principal balance at the rate of 5% per annum. The principal of and interest on the Bond shall be payable in the following installments on or before the following dates:

Interest only on the 12th days of May in the years 1981, 1982 and 1983, and the sum of \$85,375 annually thereafter on the 12th day of May 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 thirty (30) years from the date of this Bond. In lieu of coupons evidencing semiannual interest, unpaid accrued interest shall be paid on the 12th day of November of each year and the amount of interest so paid shall be deducted from the next succeeding installment of \$85,375 due the next succeeding 12th day of May.

All or a part of the outstanding bond installments may be paid in inverse order on any interest payment date, without premium, upon publication, at least 30 days before the redemption date, of one notice of the intended redemption in one issue of a newspaper specializing in financial matters published in the City and State of New York, and one issue of a newspaper of general circulation in Lincoln County, Oregon.

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 Secretary of the Borrower, each registra-

tion to be noted on the back hereof by said Secretary 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 Lincoln County, Oregon.

Default hereunder may 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 debt, and default under any other such instrument shall constitute default hereunder. Upon default, Government, at its option, may declare all or any part of said indebtedness immediately due and payable, may incur expenses on behalf of the Port to cure the cause of default and/or may take possession of the Facility and repair, maintain, operate or rent it.

This Bond is given as evidence of a loan to Borrower made by the Government pursuant to the Consolidated Farmers Home Administration 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 and issued by virtue of the majority vote of the Port Commissioners of the Port of Newport, Oregon, voting at a special meeting called and held on the 8th day of May, 1980, and by virtue of Ordinance No. _____ of the Port of Newport, Oregon, duly adopted by the Port Commission, and pursuant to the Constitution and laws of the State of Oregon, as amended.

This Bond is not a general obligation of the Port of Newport, Oregon. The principal of and interest on this Bond are payable solely from the following sources, as provided by the said Ordinance No. _____ of the Port of Newport:

(a) Revenues of the Port from the sports boat marina project, after payment of all operating and maintenance costs, subject to a prior pledge of all such revenues to the payment of the Port of Newport, Oregon General Obligation Installment Bonds, Nos. 1 to 5, inclusive;

(b) Lease and rental revenues of the Port from the marine motel/convention facilities and allied commercial shops, less

payment of administrative costs, subject to a prior pledge of all such revenues to the payment of the Port of Newport, Oregon General Obligation Bonds, Nos. 1 to 5, inclusive;

(c) Lease and rental revenues of the Port from the Island Village commercial area, less payment of administrative costs;

(d) Lease and rental revenues of the Port from its marine repair and sales facilities to be located on real property described in Exhibit A hereto, less payment of administrative costs;

(e) Lease and rental revenues of the Port from its dry moorage facilities consisting of up to 150 storage berths and to be located within the South Beach Marina Project, less payment of administrative costs.

The Port has reserved the right to issue additional bonds in this Series A up to an aggregate of \$2,200,000, and one or more series of additional bonds, including Series B, as above mentioned, the aggregate amount of such additional bonds shall not exceed \$500,000, and to pledge to the payment of the principal of and interest thereon, on a parity with the pledge for the payment of this Bond, any or all of the revenues pledged by the Port for the payment of the principal of and interest on this Bond.

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 Secretary of the Borrower, for negotiable coupon bonds payable to bearer in the denomination of \$5,000 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 5% per annum.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, to happen and to 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, and 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 Ordinances of the Port of Newport, Oregon.

IN WITNESS WHEREOF, the Port of Newport, Oregon, has caused this Bond to be signed by the President and Secretary of its Board of Port Commissioners and its corporate seal to be affixed hereto by the Secretary of the Board, all as of the _____ day of May, 1980.

PORT OF NEWPORT
LINCOLN COUNTY, OREGON

By _____
President, Board of Port
Commissioners

ATTEST:

Secretary, Board of
Port Commissioners

Section 3. (APPOINTMENT OF TRUSTEE). The United States National Bank of Oregon, a national banking association, is hereby appointed as Trustee to administer the special trust funds hereinafter provided. The Trustee's written acceptance of this obligation shall be filed with the Secretary of the Board of Port Commissioners prior to delivery of the Bonds.

The Trustee's acceptance of the trusts imposed upon it by this Ordinance shall be upon and subject to the terms and conditions hereof, including the following:

The Trustee may execute any of the trusts or powers hereof and perform any duties required of it by or through its attorneys, agents, receivers or employees, and shall be entitled to advice of counsel (who may be counsel for the Port) concerning all matters of trust hereof and its duties hereunder, and may in all cases pay such reasonable compensation as it shall deem proper to all such attorneys, agents, receivers and employees as may be reasonably be employed in connection with the trusts hereof, and the Port covenants and agrees to repay upon demand all such outlays and expenditures so incurred from the monies herein obligated thereto.

The Trustee shall not be responsible for any recitals herein or in the bonds or coupons, or for the execution, validity, priority or extension of this or any supplemental or confirmatory agreement; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants,

conditions or agreements on the part of the Port to give notice of any default therein to anyone except the Bondholder. The Trustee shall be under no duty to require of the Port full information and advice as to the performance of the covenants, conditions and agreements aforesaid.

The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons.

The Trustee shall not be compelled to do any act hereunder or to commence or defend any suit in respect hereof unless indemnified to its satisfaction, as often as it shall require, against loss, cost, liability and expense.

As to the existence or nonexistence of any fact, the Trustee, except as otherwise herein expressly provided, shall be entitled to rely upon a certificate of the Port signed by the President and attested by the Secretary of the Board of Port Commissioners as sufficient evidence of the facts therein contained, and shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but it may in its discretion, at the expense of the Port, in every case secure such further evidence as it may think necessary or advisable, but shall in no case be bound to secure the same. The Trustee may in relation to this Ordinance

act upon the opinion of advice of any attorney, valuator, engineer, accountant or other expert, whether retained by the Trustee or the Port, and shall not be responsible for any loss resulting from any action or non-action in accordance with any such opinion or advice.

The Trustee shall in no case be liable for any action taken or omitted to be taken by it in good faith and shall not be answerable for any act, default, neglect or misconduct of any of its agents or employees by it appointed or employed in connection with the execution of said trusts if such agents or employees shall have been selected with reasonable care, not in any other manner answerable or accountable under any circumstances whatsoever, except for willful neglect or want of good faith.

The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder other than events of default specified unless specifically notified in writing of such default by the Bondholder and all notices or other instruments required by this Ordinance to be delivered to the Trustee must, in order to be effective, be delivered at the office of the Trustee.

The Trustee is authorized at any time to permit the Bondholder to inspect any statement or certificate filed with the Trustee under the terms of this Ordinance.

The Trustee may deal in evidence of indebtedness of the Port, and may maintain any and all other general banking and

business relations with the Port with like effect and in the same manner as if the Trustee were not so acting.

Except for money deposited in trust hereunder and except as herein otherwise specifically provided, any money received by or deposited with the Trustee under any of the provisions of this Ordinance, shall be treated by it until it is required to pay out of the same conformably herewith, as a general deposit, without any liability for interest, save as may be agreed upon in writing by the Port and the Trustee.

The Trustee shall be entitled to reasonable compensation for all services by it rendered in the execution of the trusts hereby created, such compensation to be paid from the Operation and Maintenance Account hereinafter provided. The Compensation of the Trustee shall not be limited by any provision of law in regard to the compensation of trustees of an express trust, but shall be in such amounts as shall be separately agreed upon from time to time by the Trustee and the Port.

The Trustee shall not be required to give or enter into any bond or other security in respect to the execution for the said trusts and powers or otherwise in respect of the premises.

The Trustee shall not be responsible for filing or recording or refiling or re-recording this Ordinance or any additional or supplemental agreement hereto.

The Trustee shall be under no duty, obligation or responsibility to see to the payment of any taxes, assessments, duties

or other charges which may at any time be levied or assessed against or imposed upon the Port. The Trustee shall be under no duty, obligation or responsibility to see to the insurance or any property of the Port or itself to effect or maintain any such insurance, or to receive any policies of insurance or proceeds thereto, or make any investigation or inquiry as to the insurer with which the Port shall have insured any of its property or as to the terms or amount of any such insurance.

The Trustee shall be under no duty, obligation or responsibility in respect to the use or disposition by the Port of any bonds and coupons or in respect to the application of any part of the proceeds thereof.

The Trustee shall be under no duty, obligation or responsibility to obtain any certificate, audit, schedule statement, report or other instrument by any of the provisions hereof required or directed to be delivered or filed with it; and it shall be under no duty to investigate or certify or make any inquiry in respect to any statement contained in any such instrument or the manner in which any computation therein set forth was made, and shall have no duty of any character with respect thereto, except to exhibit such documents as it may have in its possession or give the same from time to time during reasonable banking hours to any Bondholder desiring an inspection thereof.

The Trustee shall have a lien prior to the rights of the Government upon all monies and property held by the Trustee

and upon any monies held by or paid to it hereunder, for its reasonable compensation and expenses, liabilities, advances and counsel fees made or incurred in and about the execution of the trust hereby created hereunder, and the costs and expenses of defending against liability in the premises or any character whatsoever, except for the defense of an action against the Trustee for the willful neglect or want of good faith by the Trustee or its agents or employees resulting in a court decision against the Trustee, and the Port hereby covenants and agrees to pay unto the Trustee, from moneys herein obligated thereto, such compensation and all advances, counsel fees and other expenses reasonably made or incurred in and about the execution of the trusts hereby created, together with interest on such advances at the rate per annum equal to 1% above the prime rate per annum charged by the Trustee bank on its prime bank loans.

The Trustee may at any time resign from the trusts hereby created by giving thirty (30) days' written notice to the Port, and Government, or at such shorter period of time as the Board of Port Commissioners may accept, and such resignation shall take effect at the end of the shorter of such periods of time. Such notice may be served personally or sent by certified mail.

Should the Trustee consolidate or merge with or transfer substantially all of its corporate trust business to any bank or banks, trust company or other banking institution, such consolidation or merger or transfer shall in no wise affect the rights

of the parties hereto, or the holders of any of the Bonds, and such succeeding corporation shall be the Trustee hereunder, with the same powers and with the same force and effect as if originally named herein.

Upon payment of the Trustee of all its fees, costs, expenses, commissions, disbursements, outlays and liabilities, the Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Port and signed by a duly authorized representative of the Government.

In case the Trustee shall resign or be removed or dissolved, or otherwise be or become incapable of acting hereunder, or shall be taken under the control of any public officer or officers, or of a receiver appointed by the court, a successor may be appointed by the Port, by an instrument executed by order of its Board of Port Commissioners, and signed by the President and attested by the Secretary of its Board. Every such successor Trustee so appointed shall be a bank or trust company having a capital and surplus of not less the \$10 million.

Any temporary or any successor trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Port an instrument in writing accepting such appointment hereunder, and thereupon such successor trustee, without any further act, deed or conveyance, shall become fully vested with all the rights, powers, trust, duties and obligations of its predecessor.

The Trustee, or any successor trustee, ceasing to act shall, nevertheless, on the written request of the Port or of the new trustee and at the cost and expense of the Port and upon the payment of all sums owing to it hereunder, execute any and every instrument necessary or convenient and proper to transfer to such new trustee, upon the trusts herein expressed, all the rights, powers and trusts of the trustee ceasing to act and all monies and securities in its possession in respect thereof, and shall make good and sufficient delivery to the new trustee, thus fully relieving and discharging the trustee so ceasing to act from all further liability or responsibility either to the Port or to the Government.

Any notice to or demand upon the Port shall be deemed to have been sufficiently given or served by the Trustee on the Port, for all purposes, by being deposited, certified mail, postage prepaid, in the United States mail, addressed (until another address is filed in writing by the Port with the Trustee) as follows:

Board of Port Commissioners
Port of Newport
Post Office Box 921
Newport, Oregon 97365
ATTN: Manager

Section 4. (CREATION OF SPECIAL TRUST FUNDS)

A. (Construction Trust Fund). There is hereby created with the Trustee a special fund of the Port to be know as "Port of Newport Installment Revenue Construction Trust Fund (South

Beach Marina Project, Series A and Series B)" ("Construction Trust Fund") into which shall be paid the proceeds of the sale of the Bond, except accrued interest, if any. In addition, there shall be deposited any and all other monies which may be necessary to pay the costs of constructing and completing the Facility, less an amount which, when combined with any accrued interest received from Farmers Home Administration, will be sufficient to pay the interest on the Bond due each November 12 and May 12, to and including November 12, 1981. This amount, together with the accrued interest, is to be deposited directly to the Debt Service Account hereinafter created. The Construction Trust Fund shall be drawn upon by the Trustee solely for the purpose of paying all costs of construction, including materials, supplies, labor, machinery and equipment, and costs incurred in issuing the Bond, including but not limited to engineering, architectural, inspection, accounting, legal and trustee's fees, charges and expenses, and the repayment of construction funds borrowed from the Capitalized Interest Fund for the previously issued general obligation bonds, as authorized by the Farmers Home Administration.

After all costs properly payable from the Construction Trust Fund have been paid in full, then only authorized representatives

of the Port and Farmers Home Administration shall file with the Trustee a certificate so stating, and thereafter all funds remaining in the Construction Trust Fund shall be transferred by the Trustee to the Revenue Fund, Debt Service Account, hereinafter created and the Construction Trust Fund shall be closed.

B. (Revenue Fund) There is hereby created with the Trustee a bank control account of the Port to be known as "Port of Newport Installment Revenue Fund (South Beach Marina Project, Series A and Series B)" ("Revenue Fund") into which shall be paid any excess funds remaining in the Construction Trust Fund, as provided in Subsection A above, and such of the revenues as are pledged to the payment of the principal of and interest on this Bond pursuant to Section 5 hereof which will be under the control of the Port except in the event of default. Monies so deposited shall be expended and used in the following order and manner:

(1) Operation and Maintenance Account. There shall be set aside and deposited in a separate Operation and Maintenance Account each month before any other expenditures from the Revenue Fund, a sufficient portion of the funds in the Revenue Account to pay the reasonable and necessary current expenses of operating, maintaining and administering that part of the total Facility financed from the proceeds of this Bond and other bonds issued at parity herewith for the current month. The reasonable and necessary current expenses of operation and maintenance shall be determined by the duly authorized representative of the Port and the amount of such expenditures shall be certified prior to the time for such deposit by such representative supplying a copy thereof to the Trustee. Such current expenses shall include the Trustee's fees and costs as hereinabove provided.

(2) Debt Service Account. After the transfer required in subparagraph (1) above, there shall be transferred to a separate Debt Service Account each month within the Revenue Fund, before any other expenditures or transfers therefrom, for payment of the annual installments of principal of and semiannual installments of interest on the Bond, commencing on October 1, 1981, a sum equal to at least one-sixth (1/6) of the next succeeding interest payment, and commencing on October 1, 1983, a sum equal to at least one-sixth (1/6) of the next succeeding interest payment and at least one-twelfth (1/12) of the next succeeding principal installment becoming due on the bond. The Trustee shall pay from the Debt Service Account to the registered holder or bearer of the Bond, as the case may be, such sums of principal and/or interest as shall become due from time to time according to the terms of the Bond.

If the Port 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 net revenues in the following 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 that required during the next twelve months for the payment of principal of 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, any such excess shall be deposited to the Debt Service Account and may be used by the Port to repay installments as provided above in the Bond form.

(3) Reserve Account. Out of the balance of monies in the Revenue Fund remaining after the transfers required in subparagraphs (1) and (2) above, there shall be set aside and deposited in a separate Reserve Account the sum of \$710 each month until there is accumulated in that account the sum of \$85,375 for this bond and a proportional amount for other and additional bonds in this series, up to a total of \$150,260 if a total of \$2.2 million shall be issued for Series A, and a proportional additional amount for any bonds issued in Series B, or such lesser amount as may be appropriate if not all of the bonds contemplated to be issued in Series A or in Series B shall in fact be issued, after which no further deposits need be made into such account except to replace withdrawals therefrom. The Reserve Account shall be used and disbursed only for the purpose of paying the costs 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 of and interest on the Bonds in the event the amount of the Debt Service Account is insufficient to meet such payments. Whenever disbursements are made from the Reserve Account, deposits monthly to the Reserve Account shall be resumed in the amounts herein provided until there is again accumulated the full reserve amount required above, at which time deposits may be again discontinued.

C. (Investment of Monies). Any monies held as part of

the Construction Fund and/or Revenue Fund, including any Account thereunder, shall be invested or reinvested by the Trustee at the written direction of the Port (upon which the Trustee is entitled to rely) in those obligations specifically enumerated in ORS 777.565 (3) which have maturity dates, or are subject to redemption by the holder, at the option of the holder, on or prior to the dates the funds invested therein will be needed for the purpose of such Fund or Account. The Trustee may at any time, and to the extent required for payments from either such Fund shall, sell any of such obligations, and the proceeds of such sale, and all payments at maturity and upon redemption of such investments, shall be held in such Fund. Interest and other income received or monies or securities in any such Fund shall be credited to such Fund, or its respective Account, and applied as provided in this Ordinance. The Trustee may make any and all investments through its own bond department. None of the monies will be invested or re-invested in the manner that would constitute a violation of Section 103(c) of the Internal Revenue Code of 1954, as amended.

Section 5. (PLEDGE OF REVENUES). The following revenues are hereby pledged to the payment of the principal of and interest on this Bond:

(a) revenues of the Port from the sports boat marina project, after payment of all operating and maintenance costs, subject to a prior pledge of all such revenues to the payment of the

Port of Newport, Oregon General Obligation Installment Bonds, Nos. 1 to 5, inclusive;

(b) Lease and rental revenues of the Port from the marine motel/convention facilities and allied commercial shops, less payment of administrative costs, subject to a prior pledge of all such revenues to the payment of the Port of Newport, Oregon General Obligation Bonds, Nos. 1 to 5, inclusive;

(c) Lease and rental revenues of the Port from the Island Village commercial area, less payment of administrative costs;

(d) Lease and rental revenues of the Port from its marine repair and sales facilities to be located on real property described in Exhibit A hereto, less payment of administrative costs;

(e) Lease and rental revenues of the Port from its dry moorage facilities consisting of up to 150 storage berths and to be located within the South Beach Marina Project, less payment of administrative costs;

The Bond shall not be a general obligation of the Port nor a charge upon the tax revenues of the Port nor a charge upon any other revenues or property of the Port not specifically pledged thereto, but shall be paid solely from the revenues hereinabove pledged.

The Port hereby reserves the right to issue additional bonds in this Series A up to an aggregate total of \$2,200,000 and to issue one or more series of additional bonds, including Series B, as above mentioned, up to an aggregate total of \$500,000, and to pledge to the payment of the

principal of and interest thereon, on a parity with the pledge for the payment of this Bond, any or all of the revenues pledged by the Port for the payment of the principal of and interest on this Bond.

Section 6. (OTHER COVENANTS AND AGREEMENTS OF THE PORT).

The Port 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 and to provide for the payments of the operation and maintenance of the Facility and for payments to the various funds herein created as required; that all use of the Facility shall be subject to the full rates prescribed in the Rules and Regulations of the Port; 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, accounts and date of the Port relating thereto.

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

(F) 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.

(G) 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 hereof, including lands and interest in lands, by sale, mortgage, lease or other encumbrance, without obtaining the prior written consent of Farmers Home Administration.

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

(I) It will at all times comply with all requirements of Section 103 of the Internal Revenue Code of 1954, as amended, and Regulations promulgated thereunder, so as to prevent the Bond from being or becoming an "arbitrage bond" within the meaning of Section 103(c) of the amended Code.

(J) This Bond constitutes an "Industrial Development Bond",

as defined in Section 103(b) of the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder; nevertheless, since substantially all of the proceeds of the Bond will be used to provide sports facilities as defined in Section 103 (b) (4) (B) of the Code, the interest on the Bond will be exempt from Federal income tax.

Section 7. (DEFAULT). In the event of default in the payments of any principal or accrued interest on the Bond or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government, at its option, may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Port incur and pay reasonable expenses for repair, maintenance and operation of the Facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the Facility and repair, maintain and operate or rent it. Default under the provisions of this Ordinance or any instrument incident to the making or insuring of the land may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Port, and default under any such instrument may be construed by the Government to constitute default hereunder.

Section 8. (REFINANCING). If at any time it shall appear to the Government that the Port 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 Port 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 9. (EQUAL OPPORTUNITY FOR EMPLOYMENT). The President and the Secretary of the Port Commission are hereby authorized and directed to execute for and on behalf of the Port 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 10. (ORDINANCE A CONTRACT). The provisions of this ordinance shall constitute a contract between the Port of Newport and the Government so long as any of the Bonds hereby authorized remain unpaid, which may be modified hereafter only by mutual agreement.

Section 11. The Board of Commissioners of the Port has and hereby does determine that the adoption of this ordinance is immediately necessary to permit the sale of the Bonds in a proper and orderly fashion, and to carry out the purposes and intents of this ordinance, and to take advantage of the availability of a purchaser for the Bonds, and for other good and sufficient cause, an emergency is therefore determined to exist and, immediately upon the passage of this Ordinance, this

Ordinance shall be signed by the president and attested by the secretary of the Port and recorded in a book kept by the secretary for that purpose, and shall take effect immediately thereupon.

Adopted by the Board of Port Commissioners this 8th day of May, 1980.

AYES 5

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Submitted to and approved by the President and Secretary of the Port Commission on this 8th day of May, 1980.

Bin Henden
President

ATTEST:

Paul W. Shumate
Secretary