

PORT OF NEWPORT

ORDINANCE NO. 4

1971

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF REVENUE BONDS OF THE PORT OF NEWPORT, NEWPORT, OREGON IN THE SUM OF EIGHTY THOUSAND DOLLARS (\$80,000.00) TO PROVIDE FUNDS WITH WHICH TO CONSTRUCT A PARKING FACILITY ON YAQUINA BAY, WITHIN THE PORT OF NEWPORT, IN CONJUNCTION WITH THE CITY OF NEWPORT, SAID PROJECT BEING DESIGNATED AS "PORT DOCK #5 PARKING FACILITY PROJECT"; PROVIDING AND APPROVING THE FORM OF BONDS TO BE ISSUED AND COUPONS ATTACHED THERETO, AND PROVIDING FOR THE ADVERTISING THEREOF AND FOR THE SALE OF SAID BONDS AND AUTHORIZING THE EXECUTION AND DELIVERY THEREOF.

WHEREAS, THE PORT OF NEWPORT is a duly incorporated municipal corporation, under and by virtue of the statutes of the State of Oregon, and is in good standing; and

WHEREAS, THE PORT OF NEWPORT owns and operates as part of its authorized function a boat dock facility designated as Port Dock #5, which abuts Bay Boulevard in the City of Newport on the north and extends into Yaquina Bay to the south, which serves as the docking and moorage facility for approximately 200 sports and commercial fishing vessels; and

WHEREAS, the parking facilities at or about Port Dock #5 consists solely of limited on-street perpendicular and parallel parking to serve said Dock Facility and the surrounding commercial enterprises, which parking will be reduced by at least 30% due to street improvements and redesignation of parking manners and locations; and

WHEREAS, the on and off loading of persons and supplies in vehicles at or about said Port Dock #5 creates an extreme traffic hazard due to the congestion caused by the lack of parking facilities, to the detriment of the general public, the commercial enterprises at or near Port Dock #5, the commercial enterprises using the docking and moorage facilities of said dock, and to the vessel owner and those who may be passengers upon said vessels at said dock; and

WHEREAS, there are no other areas at or about Port Dock #5 available for development as parking facilities, either by municipal or private concerns, other than that which is available to the Port of Newport because of filling caused by the deposit of spoils from emergency dredging; and

WHEREAS, THE PORT OF NEWPORT, to maintain and operate its dock and boat landing at Port Dock #5, and to maintain and improve its facility and the water front of the harbor for the public convenience and the convenience of its shipping and commercial interests, is required to construct a parking facility at or about Port Dock #5; and

WHEREAS, THE PORT OF NEWPORT, by and through its Board of Commissioners, in recognition of the condition existing, entered into an agreement, pursuant to ORS 777.112, with the CITY OF NEWPORT, a municipal corporation of the State of Oregon, located within the Port of Newport, to construct a joint PORT-CITY parking facility at Port

Dock #5, a copy of said agreement as amended is attached hereto as Exhibit 'A' and which by this reference is made a part hereof; and

WHEREAS, THE PORT OF NEWPORT did, pursuant to Section 777.565 Oregon Revised Statutes pass a resolution authorizing and directing that Notice be published as required by said Statute that action upon this Ordinance will be taken at the regular meeting of THE PORT OF NEWPORT to be held June 14, 1971; That said notice was duly published in the Newport News-Times, Newport, Oregon, and the Lincoln City News Guard, Lincoln City, Oregon, in their issues of May 20, 1971, and May 27, 1971, said newspapers being of general circulation within said PORT DISTRICT and the proof of publication, with a copy of the Notice is on file in this office and is herewith adopted and made a part hereof by reference as if fully set forth herein; and

WHEREAS, the regular meeting of the PORT OF NEWPORT, held at the office of the PORT OF NEWPORT, Newport, Oregon, was duly called to order by the President and upon a roll call vote, a legal quorum answered "present", whereupon the President called for anyone objecting to said proposed Revenue Bond Issue to voice his objections; no objections being heard;

NOW THEREFORE, IT IS ORDAINED BY THE BOARD OF COMMISSIONERS OF THE PORT OF NEWPORT:

Section 1. That the PORT OF NEWPORT shall issue bonds in its name and with the corporate seal in the amount of \$80,000.00, said bonds being in denominations of \$1,000.00 each to be numbered from one to eighty inclusive, bonds to bear interest at the rate of not to exceed six (-6-) per cent per annum, payable semi-annually from August 1st to February 1st of each year, principal and interest to be payable at the Bank of Newport, Newport, Oregon, said bonds to be signed by the President and Secretary of said Port of Newport and the corporate seal of said Port to be affixed thereto, whereby the PORT OF NEWPORT shall therein and thereby undertake, promise, and agree, in consideration of the premises to pay said bearer of each of said bonds the sum therein named in lawful money of the United States of America at the rate of not to exceed 6 (six) per cent per annum, payable semi-annually on August 1st and February 1st of each year, which bonds shall be known as THE PORT OF NEWPORT, PORT DOCK #5 PARKING FACILITY REVENUE BONDS, SERIES 1971; that interest on said bonds shall be represented by coupons annexed thereto and each of said coupons shall have the signature of the President and Secretary of said Port printed thereon which said bonds shall bear the Date of August 1, 1971, and shall mature as follows:

Bonds numbered 1 to 4 inclusive, August 1, 1973,  
Bonds numbered 5 to 8 inclusive, August 1, 1974,  
Bonds numbered 9 to 12 inclusive, August 1, 1975,  
Bonds numbered 13 to 17 inclusive, August 1, 1976,  
Bonds numbered 18 to 22 inclusive, August 1, 1977,  
Bonds numbered 23 to 27 inclusive, August 1, 1978,  
Bonds numbered 28 to 32 inclusive, August 1, 1979,  
Bonds numbered 33 to 38 inclusive, August 1, 1980,  
Bonds numbered 39 to 44 inclusive, August 1, 1981,  
Bonds numbered 45 to 50 inclusive, August 1, 1982,  
Bonds numbered 51 to 57 inclusive, August 1, 1983,  
Bonds numbered 58 to 64 inclusive, August 1, 1984,  
Bonds numbered 65 to 72 inclusive, August 1, 1985,  
Bonds numbered 73 to 80 inclusive, August 1, 1986.

Section 2. That the following form be and the same hereby authorized, to-wit:

"No. \_\_\_\_\_, \$1,000.00 United States of America, State of Oregon, Port of Newport, PORT OF NEWPORT, PORT DOCK #5 PARKING FACILITY REVENUE BONDS, SERIES 1971, for value received, promises to pay to bearer the sum of \$1,000.00 on the 1st day of August 19\_\_\_\_, with interest at the rate of \_\_\_\_\_ per cent per annum payable semi-annually on August 1st and February 1st of each year to the bearer of the respective coupons therefore and hereto attached as they may mature, both principal and interest being payable in lawful money of the United States of America at the Bank of Newport, Newport, Oregon. This bond is one of a Series of like date and tenor, except as to maturity, aggregating \$80,000. and no/100 par value in amount. Said bonds to be issued for procuring funds to aid in financing the construction of essential public works or facilities consisting of a 240 car parking facility together with such facilities as are necessary for the control of ingress and egress from such facility and the collection of revenues from such facility. The Port of Newport secures the holder of this Bond by granting a first lien on and pledge of, and payable from the net revenues derived from the operation of said facility.

Principal and interest on these revenue bonds are payable solely out of revenues of the Port pledged to the payment thereof by Ordinance No. 3, 1971.

And it is hereby certified that every requirement of law relating to the issue of this series of bonds has been duly complied with and that this bond is within every debt and other limit prescribed by the Constitution and the laws of the State of Oregon; that THE PORT OF NEWPORT has not committed use of the funds or the anticipated revenue pledged by Ordinance No. 3, 1971, to be used for any other purpose other than payment of this bond issue."

Section 3. Bonds numbered 1 through 50 inclusive, maturing August 1, 1973 through August 1, 1982 inclusive are non-callable.

Section 4. Bonds numbered 51 through 80 inclusive shall be subject to call and redemption at the option of the Port of Newport in inverse numerical order on any interest payment date after August 1, 1982, and shall contain the following paragraph:

"Bonds numbered 51 through 80 inclusive of this issue, maturing August 1, 1983 through August 1, 1986 inclusive, are subject to call and redemption at the option of the Port of Newport in whole or in part and in inverse numerical order on any interest payment date upon at least thirty days prior notice at par plus accrued interest to the date of redemption. Notice of redemption shall be given by publication by a newspaper of general circulation in the Port District."

Section 5. That the following form be and the same is hereby approved and declared to be the form of coupon to-wit:

On the 1st day of August, 19\_\_\_\_, PORT OF NEWPORT, Oregon, will pay the bearer at the Bank of Newport, Newport, Oregon, \$\_\_\_\_\_, lawful money of the United States, being six months interest on PORT OF NEWPORT, PORT DOCK #5 PARKING FACILITY REVENUE BONDS, SERIES 1971, No. \_\_\_\_\_ dated August 1, 1971, Coupon No. \_\_\_\_\_.

PORT OF NEWPORT

By \_\_\_\_\_  
President

By \_\_\_\_\_  
Secretary

Section 6. That the President of the Port of Newport and the Secretary of the Port of Newport are hereby authorized and instructed to prepare, execute and deliver the aforesaid issue of bonds as and when the sale of said bonds is authorized.

Section 7. That the Secretary of the Port of Newport is hereby authorized and instructed to advertise the aforesaid bonds for sale, bids to be opened at the regular session of the Port of Newport to be held on July 12, 1971, said advertisement to run in the Newport News-Times, Newport, Oregon, and the Lincoln City, News Guard, Lincoln City, Oregon, once each week for two successive weeks prior to date of sale.

Section 8. THE PORT OF NEWPORT, hereby, designates the Bank of Newport, a member of the Federal Deposit Insurance Corporation as Trustee for such accounts and funds as may be required by this ordinance.

Section 9. THE PORT OF NEWPORT covenants and agrees that as soon as the parking facility is substantially completed, all rentals, charges, income and revenue arising from the operation or ownership of the pledge facilities, shall be deposited to the credit of a special fund, to be known as the "Revenue Fund Account" and held in the custody of the Treasurer of the Port of Newport separate and apart from all funds. Such Revenue Fund Account shall be maintained, so long as any of the Bonds are outstanding, in a bank which is a member of the Federal Deposit Insurance Corporation and shall be used by the Treasurer only in the manner and order specified below.

Section 10. Current expenses of the pledged facility shall be payable, as a first charge, from the Revenue Fund Account as the same become due and payable. Current Expenses shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, properly allocated share of charges for insurance and other expenses incident to the operation of the pledged facility.

Section 11. The PORT OF NEWPORT shall establish with the Trustee so designated herein, and maintain so long as any of the Bonds are outstanding a separate account (herein called the "1971 Parking Facility Revenue Bond and Interest Sinking Fund Account") into which shall be deposited all accrued interest received from the sale of the revenue bonds herein proposed, which sum shall be credited against the amount to be deposited into the account on the next interest payment date plus the additional sums from the proceeds of \$2,400.00 representing the principal of the Revenue Bonds as and for capitalized interest during the actual construction period, and \$2,400.00 representing the interest which will accrue during the six (6) months thereafter. As soon as the Project is substantially complete, and after providing for the payment of current expenses, THE PORT OF NEWPORT shall transfer from the Revenue Fund Account

and deposit to the credit of the 1971 Parking Facility Revenue Bond and Interest Sinking Fund Account, on or before each July 15th and January 15th, the larger of (a) the balance therein, or (b) a sum which, together with the interest on the Revenue Bonds for the current interest period chargeable to the Construction Account as interest during construction and/or the funds then on deposit in the 1971 Parking Facility Revenue Bonds and Interest Sinking Fund Account representing capitalized interest during the development of said facility, shall be sufficient to pay the interest on the outstanding Revenue Bonds as the same become due. Provided, however, that beginning January 15, 1973 and thereafter the Port of Newport shall, after providing for the payment of Current Expenses, transfer from the Revenue Fund Account and deposit to the credit of the 1971 Parking Facility Revenue Bond and Interest Sinking Fund Account, on or before each July 15th and January 15th, the balance therein so as long as any Revenue Bonds are outstanding, or until there is deposited into such account an amount equal to the outstanding Bond Principal and interest, at which time said revenues can be used for any lawful purpose of the Port.

Section 12. The Port of Newport covenants and agrees that it will, when necessary, revise the rates and charges for the use of the Parking Facility so that gross revenues therefrom shall at all times be sufficient to pay the Current Expenses of the facility and the principal and interest on the Revenue Bonds as the same become due and payable.

Section 13. The Port of Newport covenants and agrees that it will procure Fire and Extended Coverage Insurance on the insurable portions of the Facility, Public Liability Insurance relating to the operation of the Facility with limits of not less than \$50,000.00 for one person and \$100,000.00 for one or more than one person involved in one accident to protect the Port of Newport from claims for bodily injury and/or death, and not less than \$10,000.00 property damage, and Vehicular Public Liability Insurance in the amounts aforesaid on any vehicles used in the operation of said facility. The coverage above set forth shall remain in effect so long as any Revenue Bonds remain outstanding.

Section 14. The Port of Newport has pledged as additional security for the payment of these bonds revenues to be derived from facilities other than the particular facilities financed by the sale of these bonds. The Port of Newport does covenant and agree with the bond holders that during the term of maturity of these bonds the Port of Newport will not increase or use its tax derived revenues for the operation and maintenance expenditures during any fiscal year to pay for the operating expenses of any of the facilities whose net income is pledged to the payment of these bonds.

ADOPTED this 14th day of June, 1971.

PORT OF NEWPORT

By *Lyle Hasselbaink* President

By *Stanley Alley* Secretary