

Position 5

RUS BULLETIN 1780-27

APPROVED
OMB. No. 0572-0121

LOAN RESOLUTION
(Public Bodies)

RESOLUTION NO. 4071-2018

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FORT BRAGG, CALIFORNIA, AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS WATER FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the City of Fort Bragg
(Public Body)

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its certificates of participation in the principal amount of \$5,000,000 pursuant to the provisions of a resolution entitled "Resolution of the City Council of the City of Fort Bragg Authorizing the Execution and Delivery of Certificates of Participation to Finance Wastewater System Improvements and Approving Related Documents and Actions"; and

WHEREAS, the Association intends to obtain assistance from the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of certificates of participation lawfully issued, in the event that no other acceptable purchaser for such certificates of participation is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its certificates of participation containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its certificates of participation upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its certificates of participation by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983(c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the certificates of participation or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the certificates of participation 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 Association (payable from the source of funds pledged to pay the

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certificates of participation or any other legally permissible source), 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, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.

6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.

7. Not to defease the certificates of participation, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the certificates of participation.

8. To place the proceeds of the certificates of participation on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.

9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.

10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by USDA. No free service or use of the facility will be permitted.

11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.

12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.

13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.

14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the certificates of participation if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior written approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short lived assets.

15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.

16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the certificates of participation are held or insured by the Government or assignee. The provisions of sections 6 through 16 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The above and foregoing Resolution was introduced by Councilmember Norvell, seconded by Councilmember Lee, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 26th day of February, 2018, by the following vote:

AYES: Councilmembers Cimolino, Lee, Norvell and Mayor Peters.
NOES: None.
ABSENT: Councilmember Turner.
ABSTAIN: None.
RECUSED: None.

IN WITNESS WHEREOF, the City Council of the City of Fort Bragg, California, has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 26th day of February, 2018.

CITY OF FORT BRAGG

By 
LINDY PETERS

Title: Mayor


Attest:


June Lemos, CMC
Title: City Clerk

CERTIFICATION TO BE EXECUTED AT LOAN CLOSING

I, the undersigned, as City Clerk of the City of Fort Bragg, hereby certify that the City Council of such Association is composed of five members, of whom, all constituting a quorum, were present at a meeting thereof duly called and held on the 26th day of February, 2018; and that the foregoing resolution was adopted at such meeting by the vote shown above, I further certify that as of July 12, 2018, the date of closing of the loan from the United States Department of Agriculture, said resolution remains in effect and has not been rescinded or amended in any way.

Dated, this 24th day of July, 2018.


June Lemos, CMC
Title: City Clerk