

ORDINANCE No. 184145

- * Grant preliminary approval for the issuance of one or more series of Recovery Zone Facility Bonds in an aggregate principal amount not to exceed \$31,000,000 for the financing of the Meier & Frank Project (Ordinance)

THE CITY OF PORTLAND ORDAINS:

Section 1. The Council finds:

1. Pursuant to the American Recovery and Reinvestment Act of 2009 (“ARRA”) and IRS Notice 2009-50 the State of Oregon (“State”) has been allocated \$155,175,000 of Recovery Zone Facility Bond (“RZFB”) volume cap.
2. RZFBs are private activity bonds that are able to be issued as tax-exempt bonds.
3. ARRA requires that RZFBs be issued no later than December 31, 2010 and permits the State to suballocate RZFB volume cap to local governments for use on eligible projects in recovery zones.
4. The Portland City Council enacted Ordinance No. 183563, designating the entire geographical area of the City of Portland as a recovery zone.
5. The City of Portland (the “City”) is authorized to issue economic development revenue bonds pursuant to the requirements of Portland City Code (“PCC”) Chapter 5.72.
6. Pursuant to PCC Chapter 5.72, the Portland Development Commission (“PDC”) is charged with the responsibility to process applications for private activity economic development revenue bonds.
7. PDC has received an application (“Application”) from 14th & Everett Investors, LLC, an Oregon limited liability corporation (“Applicant”), for RZFBs in the amount of \$31,000,000 to provide a portion of the funds necessary for the redevelopment of the historic Meier & Frank Warehouse (“Project”) as a five-story office building containing four floors of office space (approximately 133,000 net leasable square feet) and one floor of parking using hydraulic parking stackers totally 183 parking spaces.
8. The Oregon Business Development Department has agreed to suballocate \$31,000,000 in RZFB volume cap to the City for the Project.
9. PDC has reviewed the Application and has prepared its report recommending approval of the Application.
10. PDC has by a resolution adopted on August 25, 2010 recommended that the City Council give preliminary approval for the issuance of economic development revenue bonds as RZFBs in an aggregate principal amount not to exceed \$31,000,000 to finance the Project pursuant to PCC Chapter 5.72 and ARRA; that the City’s Office of Management and

Finance declare the City's official intent to allow proceeds of the RZFBs to be used to reimburse costs of the Project pursuant to Income Tax Regulations and determine which commercial bank or investment bank shall act as the underwriter or private placement agent for the RZFBs or which accredited investor will purchase the RZFBs.

NOW, THEREFORE, the Council directs:

- a. The City Council finds that the Project constitutes an "economic development project" within the meaning of Chapter 5.72.020 and 5.72.040.C.6 of the PCC and that the financing of the Project will serve the purposes of the PCC and therefore the City Council approves the Application.
- b. In furtherance of the approval of the Application, the City hereby expresses its intent to issue one or more series of RZFBs in accordance with ARRA and the PCC in an amount not to exceed \$31,000,000 (the "Proposed Bonds") for the purpose of providing a portion of the funds necessary to finance the Project, a deposit to the debt service reserve fund, if applicable, and any costs of issuance of the Proposed Bonds.
- c. PDC is authorized to proceed with the processing of the Application, to execute a Letter of Intent and Indemnification and Compensation Agreement with the Applicant and/or other relevant party(s), and to review the proposed terms and conditions of the financing of the Project and the Proposed Bonds.
- d. The City Council authorizes the Office of Management and Finance of the City to (a) declare the City's official intent to use proceeds of the Proposed Bonds to reimburse any expenditures made for the Project before the Proposed Bonds are issued, as required by Treasury Regulations § 1.150-2, (b) appoint the underwriter, placement agent or purchaser for the Proposed Bonds, and (c) execute a Letter of Intent and Indemnification and Compensation Agreement with the Applicant and/or other relevant party(s).
- e. The City's bond counsel, K&L Gates LLP, is designated as Bond Counsel for the Proposed Bonds. PDC and its staff are authorized and directed to consult with Bond Counsel in connection with the processing of the Application and review of the proposed terms and conditions of the financing and the Proposed Bonds to ensure that all procedural and substantive requirements of the Code and federal law are satisfied in connection with the issuance of the Proposed Bonds.
- f. Chapter 5.72 of the PCC contains provisions that govern the issuance by the City of bonds for economic development projects. Those provisions were drafted before ARRA, and have not been revised to deal with RZFBs or ARRA. Sections 5.72.070.C. and 5.72.080.B.5. of the PCC currently requires that all documents to be approved by PDC must be received in final form and received by PDC 14 days prior to the meeting at which PDC will grant its final approval. With December 31, 2010 deadline to issue RZFBs under ARRA, it may be impracticable to submit final documents to PDC 14 days prior to the PDC meeting. Therefore, the requirement to submit final documents to PDC 14 days prior to the meeting at which PDC will grant its final approval under Sections 5.72.070.C.

and 5.72.080.B.5. of the PCC is hereby waived for purposes of the issuance of RZFBs for the Project as described in this Ordinance. In addition, any provisions of Chapter 5.72 of the PCC that interfere with the efficient processing and authorization of the Proposed Bonds are hereby waived.

Section 2. The Council declares that an emergency exists in order that there be no delay in issuing the Proposed Bonds prior to the federal deadline and ensuring the favorable marketing of the Proposed bonds for the benefit of the Applicant; therefore, this Ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council: **SEP 29 2010**

Mayor Sam Adams

Prepared by: Bond Counsel:EJ

Date Prepared: September 15, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland

By  Deputy

Agenda No.
ORDINANCE NO. 184145
 Title

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INTRODUCED BY Commissioner/Auditor: Mayor Sam Adams	CLERK USE: DATE FILED <u>SEP 24 2010</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Adams <i>[Signature]</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <u><i>[Signature]</i></u> Deputy
BUREAU APPROVAL Bureau: Office of Management and Finance Bureau Head: Ken Rust <i>[Signature]</i>	ACTION TAKEN:
Prepared by: Eric Johansen:PT Date Prepared: September 15, 2010	
Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
Council Meeting Date September 29, 2010	
City Attorney Approval	

AGENDA

TIME CERTAIN
 Start time: _____

Total amount of time needed: _____
 (for presentation, testimony and discussion)

CONSENT

REGULAR
Total amount of time needed: 10 minutes
 (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	—	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	