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CHAPTER 6B ECONOMIC DEVELOPMENT

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Sec. 6B-1. Title. This division of Chapter 6B may be cited as the City of Needles Economic Development Revenue Bond Law. (Ord. No. 242-AC, § 1 (part).)

Sec. 6B-2. Findings. (a) It is necessary and essential to the well-being of the city that it provide financial assistance to promote the economic development of the city and the resultant creation of employment opportunities for residents of the city.

(b) A key component in the city's plan to revitalize the community is the expansion of the city's commercial and industrial base.

(c) The availability of the financial assistance authorized by this division will serve the legitimate public purposes and municipal affairs of the city, and the general plan of the city, by providing private enterprise with new methods of financing capital outlays that are beneficial to the city and its residents and by ensuring that economic development within the city (1) will reflect the community's needs and objectives, and (2) will be environmentally optimum with respect to both the physical and social environment of the city.

(d) The city can attract new beneficial private enterprise to the area and assist businesses currently in the area by issuing its revenue bonds to provide financing and refinancing for such enterprises.

(e) Economic development within the city will serve the following public purposes and municipal affairs of the city:

(1) The full and gainful employment of residents of the city; (2) the full and efficient utilization and modernization of existing industrial, commercial and business facilities; (3)

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the development of new industrial, commercial and business facilities; (4) the growth of the city's tax base through increased property values and consumer purchasing; (5) the reduction of the need for the costs of welfare and other remedial programs; (6) the reduction of urban ills such as crime attributable in part to inadequate economic opportunities; (7) the stability and diversification of the city's economy; (8) the lowering of the costs to city consumers of necessary goods and services; (9) the environmentally optimum disposition of the resources and waste materials of the city; and (10) the enhancement of the general economic prosperity, and the health, safety and welfare of the residents of the city.

(f) The utilization of local resources in stimulating the resurgence of private investment, and in promoting the growth and retention of employment opportunities within the city is of peculiar and unique concern to the city.

(g) The city can promote the public interest pursuant to this law without adversely affecting areas outside the city and without conflict with efforts by the state to solve problems of statewide concern. Encouraging industrial and commercial development pursuant to this division (1) promotes the public health, safety and welfare, and will improve the social, moral, economic and physical condition of the community; and (2) constitutes a municipal affair of the city, a valid exercise of the police powers of the city and a public purpose in which the city has a peculiar and unique interests. (Ord. No. 242-AC, § 1 (part).)

Sec. 6B-3. Definitions. Unless the context otherwise requires, the terms defined in this section shall have the following meanings:

(a) "Bonds" means and includes the bonds, refunding bonds, notes, bond anticipation notes, certificates, debentures and other obligations issued or entered into by the city pursuant to this division which bear interest exempt from federal income tax and which are payable as provided herein.

(b) "City" means the city of Needles, a California charter city organized and existing under the constitution of the state and the charter of the city.

(c) "Costs", as applied to a project financed in whole or in part under the provisions of this division, means and includes any and all reasonable or necessary costs incurred by or on behalf of a participant to carry out all works and undertakings and to obtain all rights and powers necessary or incident to the acquisition, construction, installation, reconstruction, rehabilitation or improvement of a project. "Costs" may include but are not limited to all costs of issuance of bonds prior to, during and for a reasonable period following construction of a project; reserves for debt service and for repairs, replacements, additions and improvements to a project; and other working capital incident to the operation of a project. Costs may include amounts paid or to be paid to a participant in reimbursement of amounts previously paid or incurred by such participant for any of the items described above.

(d) "Participant" means an individual, association, corporation, partnership, or other entity, whether for profit or not, which is approved by the city to undertake the financing of the costs of a project for which this ordinance authorizes the issuance of bonds.

(e) "Project" means any structure or building or portion thereof (and the land on which the same is located) located within the city (except to the extent such project may

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lawfully be located outside the city), and all real and personal property, including operating equipment and machinery deemed useful in connection therewith, which shall be suitable for any of the following purposes:

(1) Any undertaking involving the construction, reconstruction and use of airports, mass commuting facilities, off-street parking facilities, railroads, cable television or mass communication facilities and related facilities;

(2) All or any part of any office building or buildings for the use of such tenant or tenants as may be determined or authorized by the council, including without limitations any industrial, commercial, financial, health or other service enterprise for any corporation or other enterprise now or hereafter organized;

(3) Any facility in any manner related to or in furtherance of the educational purposes of an educational institution, including but not limited to classroom, laboratory, housing, administrative, physical, educational and medical research, service and treatment facilities;

(4) Any facilities for any recreation or amusement park, public park or theme park;

(5) Any commercial facilities constructed primarily for making wholesale or retail sales to the general public;

(6) Any facilities incident to the development of industrial sites, including land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of a site or sites for industrial or commercial use;

(7) Any convention or trade show facilities, together with all related and subordinate facilities necessary to the development and proper utilization thereof;

(8) Any facilities designed and constructed to be used as hotels and/or motels, together with all related and subordinate facilities necessary to the operation thereof, including site preparation and similar facilities;

(9) Health or hospital related facilities;

(10) Any sewage, solid waste disposal, air or water pollution control facilities, or facilities for the furnishing of water; and

(11) Multifamily rental housing facilities.

(f) "Revenues" means, with respect to a project, the rents, fees, charges, interest, principal repayments, and other income received or to be received by the city from any source on account of such project, and such other legally available moneys as the city council, in its discretion, may designate as revenues.

(g) "Rules and regulations" means the rules and regulations adopted by the city council pursuant to section 6B-15 hereof, as originally adopted or as amended or supplemented from time to time.

(h) "State" means the state of California. (Ord. No. 242-AC § 1 (part).)

Secs. 6B-4 and 6B-5. Reserved.

ARTICLE II. FINANCING PROJECTS.

Sec. 6B-6. Loans for projects. Following approval of an application, the city is authorized to finance the costs of a project. In connection with such financing, the city may make,

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purchase, or otherwise contract for the making of, a mortgage or other secured or unsecured loan to a participant with the proceeds of bonds. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-7. Sale or lease of project by city. The city is authorized to acquire, construct, enlarge, remodel, renovate, alter, improve, furnish, equip and lease as lessee, with the proceeds of bonds, projects solely for the purpose of selling or leasing as lessor such project to a participant, and is further authorized to make any contracts for such purposes. The city is also authorized to contract with such participant to undertake on behalf of the city to construct, enlarge, remodel, renovate, alter, improve, furnish and equip such project. The city is authorized to sell or lease to a participant, upon such terms and conditions as the city shall deem proper, any project owned by the city under this division, including a project conveyed to the city in connection with a financing authorized by this division but not being financed hereunder.

Sec. 6B-8. Loan agreements. The city shall enter into a loan agreement with any participant, and related parties, if applicable, with respect to the financing of a project. Such loan agreement may provide that the architectural and engineering design of the project shall be subject to such standards as may be established by the city and that the undertaking and completion of the project shall be subject to such supervision as the city deems necessary. The terms and conditions of such loan agreements may be as mutually agreed upon but shall be consistent with the provisions of this division and the rules and regulations. Any such loan agreement may provide the means or methods by which any mortgage or other financing instrument taken by the city shall be discharged, and tis shall contain a covenant by the participant to complete the project whether bond proceeds are sufficient for such purpose and may contain such other terms and conditions as the city may require. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-9. Fees. The city is authorized to charge a participant reasonable application, commitment, financing and other fees in connection with the financing of projects pursuant to this division, such fees to be specified by resolution of the city council or in the rules and regulations. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-10. Rents and charges. The city is authorized to fix, revise, charge and collect interest and principal, rents and all other rates, fees and charges with respect to the financing of a project. Such rents, rates, fees, charges and interest shall be fixed and adjusted so that the aggregate thereof will provide funds sufficient, together with other revenues and moneys which it is anticipated will be available for the project, to complete such project, pay all initial costs therefore, including all fees and expenses of the city which may be incurred in connection with financing the project. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-11. Security for loans. The city is authorized to hold deeds of trust or mortgages or security interests in personal property as security for loans and other obligations authorized by this division and to pledge or assign the same as security for repayment of bonds. Such deeds of trust, mortgages or security interests, or any other interest of the city in any project, may be assigned to, and held on behalf of the city by, any bank or trust

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company appointed to act as trustee by the city in any resolution or indenture providing for issuance of bonds. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-12. Employment of experts and consultants. The city is authorized to contract for such engineering, architectural, financial, accounting, legal or other services as may be necessary in the judgment of the city for the purposes of this division and the implementation of any project. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-13. Public works requirements inapplicable. The acquisition, construction, installation, reconstruction, rehabilitation or improvement of projects financed under this division shall not be subject to any requirements relating to buildings, works or improvements owned or operated by the city, and any requirement of public competitive bidding or other procedural restriction imposed on the award of contracts for acquisition or construction of a city building, work or improvement, or to the lease, sublease, sale or other disposition of city property shall not be applicable to any action taken under this article, unless otherwise required by law. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-14. Additional powers. In addition to all other powers specifically enumerated by this division, the city is authorized to contract for and do all things necessary or convenient to carry out the purposes of this division; provided, however, that the city shall not have the power to operate a project financed under this division as a business, except temporarily in the case of a default by a participant. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-15. Rules and regulations. All proceedings taken in connection with the processing of applications and the financing of projects shall be in accordance with this division and with such rules and regulations as shall be adopted, and as may be amended or supplemented from time to time, by the city council. (Ord. No. 242-AC § 1 (part).)

ARTICLE III. BONDS.

Sec. 6B-20. Issuance of bonds. The city may, from time to time, upon resolution of the city council, borrow money or issue its bonds under the terms of this division to provide funds in connection with any project or to refund bonds of the city previously issued under the terms of this division or other power of the city. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-21. Bonds not debt of city. (a) All of the bonds hereby authorized to be issued shall be limited obligations of the city payable from all or any specified part of the revenues authorized in this division to be pledged or assigned to secure payment of bonds. Such revenues, moneys or assets shall be the sole source of repayment of such issue of bonds. Bonds issued as authorized by this division shall not be deemed to constitute a debt or liability of the city or a pledge of the faith and credit of the city but shall be limited obligations payable solely from specified revenues moneys and assets. The issuance of bonds shall not directly, indirectly or contingently obligate the city to levy or pledge any form of taxation or to make any appropriation for their payment.

(b) All bonds shall contain on the face thereof a statement to the following effect:

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Neither the faith and credit nor the taxing power of the City of Needles or the State of California is pledged to the payment of the principal of or premium, if any, or interest on this bond. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-22. Type, form and sale of bonds. Bonds may be issued as notes, serial bonds, term bonds, installment bonds, pass-through certificates of participation, or any combination thereof. Bonds shall be authorized by resolution of the council and shall bear such date or dates, mature at such time or times, bear interest at such fixed or variable rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered or both, carry such registration privileges, be payable at such place or places, be subject to such redemption terms and have such other terms and conditions as such resolution or any indenture authorized by such resolution to be entered into the city by the mayor or the mayor's designee and the city clerk or the city clerk's designee and any coupons appertaining to such bonds shall be executed by the city clerk or the city clerk's designee. Any or all such signatures may be by facsimile. Bonds may be sold at either a public or private sale for such prices as the city shall determine. Pending preparation of definitive bonds, the city may issue temporary bonds, which shall be exchanged for such definitive bonds when prepared. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-23. Trust indenture to secure bonds. In the discretion of the city, any bonds issued under this division may be secured by a trust indenture between the city and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company in the state or in another state. Such trust indenture or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or the proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. Such trust indenture or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable, proper and not in violation of law. Any such trust indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition, any such trust indenture may contain such other provisions as the city may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out such trust indenture may be treated as a part of the cost of the operation of a project. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-24. Terms of resolution or indenture. Any resolution authorizing any bonds or any issue of bonds, or any trust indenture authorized by such resolution to be entered into the city, may contain provisions respecting any of the following terms and conditions:

- (a) The terms, conditions and form of such bonds and the interest and principal to be paid thereon;
- (b) Limitations on the uses and purposes to which the proceeds of sale of such bonds may be applied, and the pledge or assignment of such proceeds to secure the payment of such bonds;

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(c) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds;

(d) The setting aside of reserves and sinking funds and the regulations and disposition thereof;

(e) The pledge or assignment of all or any part of the revenues and the use and disposition thereof, subject to such agreements with the holders of bonds as may then be outstanding;

(f) Limitation on the use of revenues for expenditures for operating, administration or other expenses of the city;

(g) Specification of the acts or omissions to act which shall constitute a default in the duties of the city to holders of such bonds, and providing the rights and remedies of such holders in the event of default, including any limitations on the right of action by individual bondholders;

(h) The procedure, if any, by which the terms may be amended or abrogated, the amount of such bonds, the holders of which must consent thereto, and the way such consent may be given; and

(i) Any other provisions which the city council may deem reasonable and proper for the purposes of this division and the security of the bondholders. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-25. Security for the bonds. The principal of any interest on any bonds issued by the city under this division may be secured by a pledge of, or security interest in, the revenues, rentals and receipts out of which the same may be made payable or from other moneys available therefore and not otherwise pledged or used as security and may be secured by a trust indenture (which may assign the city's right) in any loan agreements, leases, sale agreements, mortgages and deeds of trust which the city may have with a participant(s), and/or by a mortgagor deed of trust (including mortgages or deeds of trust from the participant(s) to the trustee) covering all or any part of the project from which the revenues, rental or receipts so pledged or used as security may be derived, including any enlargements of and additions to any such project thereafter made. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-26. Insurance or guarantee of payment. The city may obtain, or aid in obtaining, from any department or agency of the United States or of the state or any private company or banking institution, any insurance, guarantee, letter of credit or contractual agreement as to, or of or for the payment or repayment of, interest or principal, or both, or any part thereof, on any bond issued under the terms of this division or on any loan, lease or sale obligation or any instrument evidencing or securing the same made or entered into pursuant to the provisions of this division; and may accept payment in such manner and form as provided therein in the event of default by a participant, and may assign any such insurance or guarantee as security for bonds. (Ord. No. 242-AC § 1 (part).)

Sec. 6B-27. No personal liability. Neither the members of the council, the officers or employees of the city, nor any bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

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Sec. 6B-28. Refunding bonds. (a) The city may issue bonds for the purpose of refunding any bonds then outstanding, including the payment of any redemption premiums thereof and any interest accrued or to accrue to the earliest or any subsequent date or dates of redemption, purchase or maturity of such bonds.

(b) The proceeds of bonds issued for the purpose of refunding any outstanding bonds may, in the discretion of the city, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds, either at their earliest or any subsequent redemption date or dates or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow, to be applied together with the earnings thereon to such purchase or retirement at maturity or redemption on such date or dates as may be determined by the city.

(c) All bonds issued pursuant to this division shall be subject to the provisions of this division in the same manner and to the same extent as other bonds issued pursuant to this division. (Ord. 242-AC §1)

Sec. 6B-29. Pledge of revenues, money or property. Any pledge of revenues or other moneys or assets as authorized by this division shall be valid in binding from the time such pledge is made. Revenues, moneys and assets so pledged and thereafter received by the city shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the city, irrespective of whether such parties have notice thereof. Neither the resolution nor any indenture by which a pledge is created need be filed or recorded except in the records of the city. (Ord. 242-AC § 1)

Sec. 6B-30. Purchase of bonds by city. The city shall have the power out of any funds available therefor to purchase its bonds. The city may hold, pledge, cancel, or resell such bonds, subject to and in accordance with agreements with the bondholders. (Ord. 242-AC § 1)

Sec. 6B-31. Actions by bondholders. Any holder of bonds issued under the provisions of this division or any of the coupons appertaining thereto, and any trustee appointed pursuant to any resolution relating to the issuance of bonds, except to the extent the rights thereof may be restricted by such resolution or any indenture authorized thereby to be entered into by the city, may, either at law or in equity by suit, action, mandamus or other proceedings, protect or enforce any and all rights specified in law or in such resolution or indenture, and may enforce and compel the performance of all duties required by this division or by such resolution or indenture to be performed by the city or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of rates, fees, interest and charges authorized and required by the provisions of such resolution or indenture to be fixed, charged and collected. (Ord. 242-AC § 1)

Sec. 6B-32. Bond anticipation notes. In anticipation of the sale of bonds authorized by this division, the city is authorized to issue bond anticipation notes, and to renew the same from time to time, in such series and amounts as are determined by the council to be necessary or appropriate for the costs of facilities approved by the council. Such notes

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shall be payable from revenues or other moneys or assets authorized by this division to be pledged to secure payment of bonds, and which are not otherwise pledged, or from the proceeds of sale of the particular bonds in anticipation of which there are issued. Such notes shall be issued in the same manner as bonds. The mayor or city manager shall determine the terms and timing of the issuance of particular bond anticipation notes in accord with the provisions of this division and the resolution of the city council approving the particular project to be financed thereby. Such notes, any resolution relating to the issuance of such notes and any indenture to be entered into by the city pursuant to such resolution may contain any provisions, conditions or limitations permitted under this article. (Ord. 242-AC § 1)

Secs. 6B-33 through 6B-35. Reserved.

ARTICLE IV. APPLICATIONS

Sec. 6B-36. Applications for financing. Any prospective participant may apply to the city for financing pursuant to this division by filing an application with the city in such form and setting forth such information as the city may require in order to enable the city to evaluate the applicant, the project, its proposed costs and public benefits. All applications shall contain the agreement of the applicant to pay all expenses, legal or otherwise, which may be incurred by the city in connection with the processing of the application and the financing of the project. (Ord. 242-AC § 1)

Sec. 6B-37. Acceptance of applications. Upon receipt of an application containing all required information, agreements and undertakings, the city council shall, at such time as is deemed convenient by it, review such application and any staff recommendations with respect thereto, in accordance with the procedures set forth in the rules and regulations. If the city council chooses to approve any application, it shall adopt a resolution in which it (1) finds and determines that the proposed project described in the application (a) promotes the long-term employment of residents of the city and/or will significantly contribute to the maintenance, growth or expansion of the economic base of the city, (b) constitutes a valid exercise of the police powers of the city, and serves a public purpose in which the city has a peculiar and unique interest, and (c) substantially relates to a municipal affair of the city, and (2) accepts and approves such application and the participation of the city in financing of such project, subject to the provisions of this division, the rules and regulations, and the conclusion of all proceedings undertaken to consummate such financing to the satisfaction of the city. (Ord. 242-AC § 1)

Sec. 6B-38. Resolution of intent. Notwithstanding section 6B-37 hereof, ,at any time following receipt of an application, the city council may adopt a resolution stating the council's present intention to issue bonds to finance a project. Such resolution shall state the approximate location of the project, the approximate principal amount of the proposed financing, and the nature of the project and shall further generally describe the terms of bonds which may be issued to finance the same. In no event shall adoption of such resolution obligate the city to go forward with such financing. (Ord. 242-AC § 1)

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Secs. 6B-39 through 6B-41. Reserved.

ARTICLE V. SUPPLEMENTAL PROVISIONS.

Sec. 6B-42. Liberal construction. This division, being necessary for the welfare of the city and its inhabitants, shall be liberally construed to effect its purpose. (Ord. 242-AC § 1)

Sec. 6B-43. Authority to do all necessary things. In addition to all other powers specifically granted by this division, the city may do all things necessary or convenient to carry out the purposes of this division, including entering into such written agreements and other documents as may be appropriate to fulfill the purposes of this division. (Ord. 242-AC § 1)

Sec. 6B-44. Omissions. Any omission of any officer of the city in proceedings under this division or any other defect in the proceedings shall not invalidate such proceedings or the bonds issued pursuant to this division. (Ord. 242-AC § 1)

Sec. 6B-45. Full authority. This division is full authority for the issuance of bonds by the city for any of the purposes specified herein. This division provides a complete, additional and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to the powers conferred by other laws. The issuance of bonds under the provisions of this division need not comply with the requirements of any other law applicable to the issuance of bonds. The purposes authorized hereby may be effectuated and bonds are authorized to be issued for any such purposes under this division notwithstanding that any other law may provide for such purposes or for the issuance of bonds for like purposes and without regard to the requirements, restrictions limitations or other provisions contained in any other law.

Sec. 6B-46. No limitation on appropriations. Revenues as defined by this division, and the expenditure of such revenues shall not be taken into account in any manner in determining the city's compliance with Article XIII B of the California constitution. (Ord. 242-AC § 1)

Sec. 6B-47. Plural includes singular. Unless the context required otherwise, all uses of the singular herein include the plural and all uses of the plural include the singular. (Ord. 242-AC § 1)

DIVISION 2. RESERVED.

Secs. 6B-48 through 6B-60. Reserved.