

ORDINANCE NO. 4638

AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF ALBANY, OREGON SEWER REVENUE BONDS, SERIES 1984; PLEDGING SEWER USER REVENUES FOR THE PAYMENT OF THE BONDS; DESIGNATING THE UNDERWRITER, THE PAYING AGENT AND REGISTRAR, BOND COUNSEL AND APPROVING OF THE FORM OF THE BONDS AND DECLARING AN EMERGENCY.

Pursuant to Oregon Revised Statutes 288.805 to 288.945, inclusive, the Council of the City of Albany, Oregon adopted Resolution No. 24-60 on April 25, 1984 authorizing the issuance of sewer revenue bonds in the principal sum of \$3,000,000 for the purpose of financing the Central Albany and West Albany Storm Drain Facilities including payment for engineering fees, attorneys' fees and cost of issuance of the Bonds.

A Notice of Intent to Issue Sewer Revenue Bonds was published in the Albany Democrat Herald, a newspaper of general circulation within the City, on April 26, 1984. During the sixty (60) days following the publication of the Notice of Intent to Issue Sewer Revenue Bonds no petitions were filed with the City by electors residing within the City asking to have the question of whether to issue such bonds be referred to a vote. The City Council has elected to authorize the issuance and sale of the revenue bonds at private negotiated sale, upon such terms and at such prices as may be determined by the City Council. Pursuant to ORS 288.845 the City has retained Dean Witter Reynolds Inc. to provide independent expert advice and to evaluate the proposed private negotiated sale.

The City has prepared a plan showing that the estimated net revenues of the sewer system and waste water treatment facilities are sufficient to pay the estimated debt incurred under the sewer revenue bond issue.

THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. The City of Albany, Oregon (the "City") does authorize the issuance and the sale of Sewer Revenue Bonds, Series 1984 in the principal amount of Three Million Dollars (\$3,000,000) (the "Bonds"). The Bonds will be issued in fully registered form, will be dated August 1, 1984, will be in denominations of \$5,000 or any integral multiple thereof, will be numbered sequentially beginning with R-1, will bear interest payable semiannually on the first day of February and the first day of August of each year, commencing February 1, 1985 and will mature on the first day of August in each year and in principal amounts as follows:

<u>Year</u>	<u>Amount</u>
1985	\$ 30,000.00
1986	35,000.00
1987	35,000.00
1988	40,000.00
1989	45,000.00
1990	45,000.00
1991	50,000.00
1992	55,000.00
1993	60,000.00
1994	70,000.00
1995	75,000.00
1996	80,000.00
1997	90,000.00
1998	100,000.00
1999	115,000.00

\$2,075,000 Term Bonds due August 1, 2009

Section 2. The Bonds maturing August 1, 2009 are subject to mandatory redemption prior to maturity, in part and by lot, as determined by the City on August 1, 2000, and on each August 1 thereafter, in the principal amounts as set forth below at a price of 100% of the principal amount thereof plus accrued interest to the date of redemption:

<u>Year</u>	<u>Amount</u>
August 1, 2000	\$ 120,000.00
August 1, 2001	140,000.00
August 1, 2002	155,000.00
August 1, 2003	170,000.00
August 1, 2004	185,000.00
August 1, 2005	210,000.00
August 1, 2006	235,000.00
August 1, 2007	255,000.00
August 1, 2008	285,000.00
August 1, 2009	<u>320,000.00</u>
TOTAL	\$2,075,000.00

Section 3. On August 1, 1994 and on any interest payment date thereafter the City may redeem all or any portion of the Bonds then outstanding, in whole, or in part, in inverse order of maturities and by lot within a maturity as determined by the City at par value together with accrued interest to the date of redemption.

Section 4. Notice of redemption shall be published as provided by law and shall be given by registered or certified mail not less than thirty (30) days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books of the City. In addition, notice of redemption shall be mailed to Standard & Poors Corp. and Moody's Investors Service Inc., New York City, New York. Bonds are redeemable at the office of the Paying Agent.

Section 5. The proceeds from the sale of the Bonds shall be applied and used for the payment of (a) all expenses for the design, construction and installation of the facilities designated as the Central Albany Sewer/Storm Drain Project and the West Albany Sewer/Storm Drain Project being "facilities" functionally related and subordinate to real property and (b) the costs of issuance of the Bonds and related costs including bond expenses incurred by the City.

Section 6. The City pledges to the payment of the Bonds the gross revenues of the City Sewer System, after payment of the operation and maintenance expenses including the administrative overhead of the system and including the waste water treatment plant collection, maintenance and administrative expenses ("Net Revenues").

Section 7. The City covenants and agrees that it shall impose and collect such sewer user fees and charges and shall revise its rate structure as shall be necessary in order that the revenues of the sewer system will be sufficient at all times to provide for the operation and maintenance and administrative expenses of the sewer system including the waste water treatment collection, maintenance and administrative costs and to provide Net Revenues not less than 1.3 times the then fiscal year annual debt service on the Bonds; that all use of the sewer system shall be subject to the full rates prescribed by the City; and that no free use of the sewer system will be permitted.

Section 8. The City does authorize the creation of a Debt Service Fund and a Debt Service Reserve Account ("Special Funds"). Immediately upon the sale and delivery of the Bonds the City shall deposit to the Debt Service Reserve Account an amount equal to the maximum annual debt service on the Bonds, defined as the maximum amount in the aggregate of principal of and interest on the Bonds due in any one fiscal year. The August 1, 2009 Term Bonds shall be deemed to be amortized in the annual amounts of principal as are subject to mandatory redemption plus annual interest on the outstanding Bonds. The Debt Service Reserve Account and the moneys therein are irrevocably pledged to the payment of the Bond debt service, and such funds may be applied upon the final maturity of the principal of and interest on the Bonds.

Section 9. The City shall deposit monthly into the Debt Service Fund from the Net Revenues of the Sewer System an amount not less than one-sixth (1/6) of the amount required to pay the interest due on the Bonds on the next forthcoming interest payment date and a further amount not less than one-twelfth (1/12) of the amount required for the payment of principal of the Bonds to be retired on the next forthcoming principal maturity date. In determining the amounts required for the monthly deposits the City may consider any other sums then on deposit in the Debt Service Fund for the payment of principal of and interest on the Bonds. The sums so deposited are pledged irrevocably to be used only to pay interest on the Bonds on each interest payment date and to pay the principal of the Bonds on each principal payment date. Net Revenues not so deposited monthly in the Debt Service Fund may be used and applied by the City for capital improvements to the City Sewer System or for such other uses and purposes relating to the operation of and maintenance of and repair, restoration and enlargements or for administrative expenses of the Sewer System and the Waste Water Treatment facilities.

Section 10. The moneys in the Special Funds shall be invested as prescribed by Oregon Revised Statutes 294.035 for the investment of surplus funds of political subdivisions. Earnings of the Debt Service Fund shall accrue to the Fund. Earnings of the Debt Service Reserve Account shall be applied first to the deficiency, if any, in such Fund and any sums in excess of the maximum annual debt service on the Bonds shall be transferred to the Debt Service Fund.

Section 11. The City may issue additional sewer revenue bonds (the "Additional Bonds") on a parity with the Bonds, which shall be secured in all respects in the same manner as the Bonds and shall be issued for the purpose of making additions, enlargements, replacements, extensions and improvements to the Sewer System. Such Additional Bonds may be issued upon compliance with the following conditions:

(a) That no deficiency exists in the required moneys to be on deposit in the Special Funds; and

(b) Provisions shall be made, from the proceeds of the Additional Bonds, to deposit to the Debt Service Reserve Account a sum equalling the maximum annual debt service on the proposed Additional Bonds; and

(c) The City shall obtain and have on file a certificate from an independent professional engineer or certified public accountant determining that the Net Revenues (gross revenues less

operation and maintenance and administrative expenses including waste water treatment collection, maintenance and administrative costs) in any twelve (12) consecutive months within the 24 months immediately preceding the issuance of such Additional Bonds equals 1.3 times the maximum annual debt service of the Bonds and of the proposed Additional Bonds.

In determining whether the City complies with the conditions for the issuance of Additional Bonds the following adjustments may be made to the Net Revenues in the certificate as required in Subparagraph (c) above:

(i) Any rate change that has taken place or previously has been approved and is effective may be reflected in the Net Revenues of the twelve month term;

(ii) Any increase in the Net Revenues estimated to result from any additions, betterments and improvements to and extensions of the Sewer System which become operational during such twelve month period, or were under construction at the time of such certificate or will be constructed from the proceeds of the Additional Bonds to be issued may be included in the determination;

(iii) Additional revenues to be realized from sewer users added to the Sewer System during or subsequent to the twelve-month term;

(d) The adoption of an ordinance by the City Council containing provisions incorporating and making binding upon the registered owners of the Additional Bonds all provisions of this Ordinance which describe the rights and obligations of the registered owners of the Bonds; and

(e) Provided that, the Additional Bonds, when issued in accordance with this Section, shall be secured on a parity with and equally and ratably with the registered owners of the Bonds and the Additional Bonds, without preference, priority or distinction because of the date of the issue of such Bonds or the incurrence of the additional parity debt.

Section 12. The City covenants that it will not invest the proceeds of the Bonds in any manner which would cause such proceeds to be arbitrage bonds within the meaning of Section 103(c) of the United States Internal Revenue Code of 1954, as amended, and applicable regulations promulgated thereunder.

Section 13. The City will not dispose of or transfer its title to the Sewer System and it will operate and maintain the Sewer System in good condition and repair. The City covenants to maintain the Sewer System presently existing or hereafter constructed and installed insured against loss by fire and hazards included within the term "extended coverage", and other casualties in an amount not less than the full replacement cost of the Sewer System without deduction for depreciation.

Section 14. The City shall maintain complete books and records relating to the operation of the Sewer System 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. At all reasonable times the registered owners of the Bonds, or their designated representative, shall have the right to inspect the Sewer System and the records, accounts and data of the City relating thereto.

Section 15. The City does authorize the City Recorder to enter into negotiations with Seattle Northwest Securities Corporation to serve as Underwriter for the issuance and sale of the Bonds. The Bonds may be sold at private negotiated sale at a price of not less than 96% of par value. At such time as the City receives an acceptable offer from the Underwriters for the purchase of the Bonds, the City may award the sale, subject to compliance with the provisions of law, in accordance with the terms of the offer or may reject such offer and enter into negotiations with other purchasers.

Section 16. The First Interstate Bank of Oregon, N.A. is designated as the Paying Agent and Registrar for the Bonds and as the custodian for the Special Funds. The City Recorder is directed to enter into agreements with the Paying Agent and Registrar for the payment of the principal of and interest on the Bonds and to enter into a custodian agreement wherein the Special Funds are physically retained in the custody of the Bank subject to disbursement and investment thereof as provided in this Ordinance.

Section 17. The Bonds shall be entitled City of Albany, Oregon Sewer Revenue Bonds, Series 1984 and shall bear the facsimile signature of the Mayor and be attested by the manual signature of the City Recorder and shall be in substantially the form as Exhibit A, attached herein. The Council does request and authorize the Registrar to authenticate the Bonds by executing the Certificate of Authentication as of the date of delivery of the Bonds. The principal of the Bonds shall be payable upon delivery at maturity or upon prior redemption at the office of the Paying Agent and Registrar in Portland, Oregon. The interest shall be

payable by check or draft of the Paying Agent mailed to the registered owner thereof whose name and address appears on the registration books of the City maintained by the Paying Agent as of the fifteenth day of the month preceding each interest payment date.

Section 18. The Bonds are transferable, or subject to exchange, for fully registered bonds in the denominations of \$5,000 or integral multiples thereof, by the registered owner or by the registered owner's attorney, duly authorized in writing, at the office of the Registrar. Upon surrender and cancellation of the Bond to be transferred or exchanged, a new bond or bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee. The City and the Registrar may deem and treat the registered owner as the absolute owner of the Bond for the purpose of receiving payment of the principal and interest due on the Bonds and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary. The Paying Agent shall maintain a record of the names and addresses of the registered owners of the Bonds. The records of registered bond ownership are not public records within the meaning of Oregon Revised Statutes 192.410(4). The agreement entered into between the City and the Paying Agent and Registrar shall be approved as to form by the City Attorney and shall provide for compliance with Oregon Administrative Rule 170-61-010. The Registrar shall not be required to transfer or exchange any bond after the close of business on the fifteenth day of the month next preceding any interest payment date or to transfer or exchange any bond called or being called for redemption.

Section 19. The City Recorder is authorized to contract for the printing of the Bonds which may provide for the printing of, in addition to the original issue of bonds, additional bonds to be printed in blank form as to registration and to be designated by appropriate number for delivery to the registered owners upon transfer or exchange of bonds. The blank bonds shall be dated as of August 1, 1984 and shall be signed by the facsimile signature of the present Mayor of the City and may be signed by the manual signature of the present City Recorder and the Registrar shall manually authenticate the Bonds as of the date of transfer of the Bonds.

Section 20. The Bonds shall be issued subject to the final approving opinion of Rankin, McMurry, VavRosky & Doherty, attorneys of Portland, Oregon.

Section 21. It is hereby declared that the City must proceed promptly with the construction and installation of the facilities and this Ordinance is necessary for the immediate preservation of the public peace, health and safety and this Ordinance shall be in full force and effect from and after its passage by the City Council.

PASSED by the Council: July 18, 1984

APPROVED BY THE MAYOR: July 19, 1984

EFFECTIVE DATE: July 18, 1984

Donald W. Brudney
MAYOR

ATTEST:

[Signature]
CITY RECORDER

ADDITIONAL PROVISIONS

This Bond is one of an authorized series of Sewer Revenue Bonds, Series 1984 of the City of Albany, Oregon aggregating \$3,000,000 in principal amount, issued to provide funds for the construction and installation of the Central Albany and the West Albany Storm Drain Facilities. This Bond is authorized and issued by virtue of Oregon Revised Statutes 288.805 to 288.945, inclusive and by Ordinance No. _____ adopted by the City Council of the City on the _____ day of July, 1984. The City has irrevocably pledged, on a parity with any Additional Bonds that may be issued hereafter in accordance with the provisions of the Ordinance, the sewer user Net Revenues as defined in the Ordinance and certain Special Funds. Such Net Revenues shall be deposited to a Debt Service Fund created by the City and in the custody of the Paying Agent. In addition, from the proceeds of the Bonds a sum equal to the maximum annual debt service on the Bonds shall be deposited to the Debt Service Reserve Account, in the custody of the Paying Agent, to secure the payment of the principal of and interest on the Bonds. The City may issue Additional Bonds on a parity of security with the Bonds and payable from the sewer user Net Revenues providing the conditions specified in the Ordinance are first met. The City has covenanted to maintain at all times rates and charges for sewer user services within the City sufficient in amount to pay the maturing principal and interest on the Bonds.

The Bonds maturing August 1, 2009 are subject to mandatory redemption prior to maturity by lot from the sewer user revenues in the Debt Service Fund on August 1, 2000 and each August 1 thereafter in principal amounts as set forth below, at a price of 100% of the principal amount thereof plus accrued interest to the date of redemption.

<u>Maturity Dates</u>	<u>Principal Amounts</u>
2000	\$120,000
2001	140,000
2002	155,000
2003	170,000
2004	185,000
2005	210,000
2006	235,000
2007	255,000
2008	285,000
2009	320,000

On August 1, 1994 and on any interest payment date thereafter, the City of Albany may redeem, in addition to the Bonds subject to mandatory redemption, all or any part of the Bonds in whole, or in part, in inverse order of maturities and by lot within a maturity at the redemption prices (expressed as a percentage of the principal amount), together with accrued interest to the date fixed for redemption, as set forth below:

<u>Redemption Period</u>	<u>Redemption Price</u>
August 1, 1994 and thereafter	100%

Notice of redemption shall be published as provided by law and shall be given by registered or certified mail not less than thirty (30) days prior to the date fixed for redemption to the registered owner of each bond to be redeemed at the address shown on the registration books of the City. In addition, notice of redemption shall be mailed to Standard & Poors Corp. and Moody's Investors Service In., New York City, New York. Bonds are redeemable at the office of the Paying Agent.

This Bond is transferrable by the registered owner hereof in person or by the owner's attorney duly authorized in writing at the principal office of the Registrar in Portland, Oregon, but only in the manner and subject to the limitations provided in the authorizing ordinance, and upon surrender and cancellation of this Bond. Upon such transfer, a new Bond or Bonds of authorized denominations of the same maturity and for the same aggregate principal amount will be issued to the transferee.

The Bonds are issued in fully registered form and in the denomination of \$5,000 each or any integral multiple thereof. This Bond may be exchanged at the principal office of the Registrar for a like aggregate principal amount of Bonds of the same maturity of other authorized denominations, upon the terms set forth in the Ordinance.

The City and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payment of the principal hereof, and interest due hereon and for all other purposes and neither the City nor the Registrar shall be affected by any notice to the contrary.

The following abbreviations, when used in the inscription on the face of the within Bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM - as tenants in common
TEN ENT - as tenants by the entireties
JT TEN - as joint tenants with right
of survivorship and not as
tenants in common
UNIF GIFT MIN ACT _____ Custodian
(cust) _____ (Minor)
under Uniform Gifts to Minors Act

(State)

Additional abbreviations may also be used though not set forth above.

FORM OF ASSIGNMENT

FOR VALUE RECEIVED , the undersigned sells, assigns and transfers unto _____

PLEASE INSERT SOCIAL SECURITY OR
OTHER IDENTIFYING NUMBER OF ASSIGNEE

(Name and Address of Assignee)

the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____

_____ as attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____
Signature Guaranteed: _____

(Commercial bank, trust company or member of a national stock exchange)

Note: The signature(s) on this assignment must correspond with the name(s) as written on the face of the within registered bond in every particular without alteration or enlargement or any change whatsoever.