

ORDINANCE NO. 4654

AN ORDINANCE OF THE CITY OF ALBANY, OREGON AUTHORIZING THE ISSUANCE AND SALE OF \$9,800,000 GENERAL OBLIGATION WATER BONDS, SERIES 1984; APPROVING AN AGREEMENT FOR THE PURCHASE OF THE WATER UTILITY SYSTEM; AUTHORIZING THE GRANTING OF A MORTGAGE UPON THE SYSTEM; ESTABLISHING A RATE COVENANT; DESIGNATING A PAYING AGENT AND REGISTRAR; AUTHORIZING THE PUBLICATION OF A NOTICE OF SALE; CALLING A SPECIAL MEETING OF THE COUNCIL AND DECLARING AN EMERGENCY.

WHEREAS, the City Council of the City of Albany, Oregon (the "City") on the 8th day of August, 1984 adopted an Ordinance calling a special election to submit to the voters of the City the question of contracting a general obligation bonded indebtedness in the amount of \$9,800,000 to finance the acquisition of a water utility system presently servicing the City of Albany and the construction of improvements thereto; and

WHEREAS, at a special election held within the City on September 18, 1984 the voters of the City approved of the issuance of the general obligation water bonds; and

WHEREAS, the City has entered into negotiations with Pacific Power & Light Company (the "Company") for the purchase of the existing water utility system owned by the Company and presently servicing the City and its inhabitants. The City Manager has presented to the City Council an Agreement for the purchase of the water supply system hydroelectric generating facility (the "water utility system") as proposed by the Company. The City Council has considered the terms and provisions of the Agreement and finds and determines that it is in the best interests of the City and its inhabitants for the City to own and operate the water utility system, that rate savings will accrue to the water users of the system when the system is operated and maintained by the City and it is necessary and desirable for the Agreement to be approved and the City to proceed with the purchase of the water utility system; and

WHEREAS, the City Council further finds that it is necessary and desirable to insure the ability to levy taxes without limitation as to rate or amount for the purposes of paying the general obligation water bonds that such bonds be issued prior to November 5, 1984, and, as authorized by statute, such bonds shall be issued and delivered to the Company if it is the successful

bidder at the public sale of the bonds, in payment of the purchase price of the water utility system and the lands to be acquired by the City pursuant to the Agreement. In the event of the successful bid for the purchase of the bonds by a bidder other than the Company then the proceeds of the sale of the Bonds shall be applied upon the purchase price of the water utility system to be acquired by the City pursuant to the Agreement. The Agreement requires the closing of the purchase of the water utility systems on or about November 5, 1984 and the transfer of possession and management of the system thereafter but in any event no later than December 31, 1984 or as may be mutually extended pursuant to the Agreement.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF ALBANY ORDAIN AS FOLLOWS:

Section 1. Issuance of Bonds. The City Council of the City of Albany, Oregon does hereby authorize the issuance and public competitive sale of \$9,800,000 of general obligation water bonds (the "Bonds"). The Bonds shall be serial negotiable general obligation water bonds of the City and shall bear interest at a rate not to exceed Twelve Percent (12%) per annum, payable semi-annually on the first day of May and the first day of November, commencing May 1, 1985 until final maturity or sooner redemption. The Bonds shall be payable in any coin or currency which at the time of payment is legal tender for the payment of public and private debts within the United States of America.

Section 2. Maturity of Bonds. The Bonds shall be entitled "City of Albany, Oregon, General Obligation Water Bonds, Series 1984" and shall bear the facsimile signature of the Mayor of the City and the manual or facsimile signature of the City Recorder. In addition, the City Council does hereby request and authorize the Bond Registrar to execute the Certificate of Authentication as of the date of delivery of the Bonds.

The Bonds shall be issued in fully registered form, shall be in denominations of Five Thousand Dollars (\$5,000) each, or any integral multiple thereof, shall be issued as printed bonds, (or if the Company is the purchaser, as a single, typewritten registered installment bond), shall be dated November 1, 1984 and shall be numbered sequentially beginning with R-1, and shall mature serially in annual installments on the first day of November, as follows:

<u>Year</u>	<u>Amount</u>	<u>Year</u>	<u>Amount</u>
1985	\$135,000	1993	\$215,000
1986	145,000	1994	235,000
1987	150,000	1995	260,000
1988	150,000	1996	280,000
1989	155,000	1997	310,000
1990	170,000	1998	340,000
1991	185,000	1999	370,000
1992	200,000		

\$2,500,000 Term Bonds due November 1, 2004
 \$4,000,000 Term Bonds due November 1, 2009

Section 3. Payment of Bonds. The principal of the Bonds shall be payable upon presentation of the Bonds at maturity at the office of the Paying Agent in Portland, Oregon. Payment of each installment of interest due on May 1 and November 1 of each year shall be made by check or draft of the Paying Agent mailed to the registered owner of each Bond whose name and address appears on the registration books of the City maintained by the Paying Agent as of the close of business on the 15th day of the month next preceding the interest payment date.

Section 4. Designation of Paying Agent. The City Council does appoint and designate the First Interstate Bank of Oregon, N.A. of Portland, Oregon, as the Paying Agent and Registrar of the Bonds. The City Manager is authorized to negotiate and execute on behalf of the City a Paying Agent and Registrar Agreement, as approved as to form by the City Attorney. The Agreement shall provide for compliance with Oregon Administrative Rule 170-61-010.

Section 5. Transfer or Exchange of Bonds. The Bonds are transferable, or subject to exchange, for fully registered Bonds in the denomination of \$5,000, or integral multiples thereof by the registered owner thereof in person, or by the owner's attorney, duly authorized in writing, at the office of the Bond Registrar. 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).

All bonds issued upon transfer, or in exchange, for Bonds shall be valid general obligations of the City evidencing the same debt and entitled to the same benefits as the Bonds surrendered for such exchange or transfer. All fees, expenses and charges of the Paying Agent and of the Bond Registrar shall be payable by the City. The Bond Registrar shall not be required to transfer or exchange any Bond after the close of business on the 15th day of the month next preceding any interest payment date.

Section 6. Pledge of Tax Levy. The full faith and credit of the City are pledged to the successive owners of each of the Bonds for the punctual payment of the principal of and interest on the Bonds when due. The City shall levy annually, as provided by law, a direct ad valorem tax upon all of the taxable property within the City in sufficient amount, without limitation, to pay the principal of and interest on the Bonds promptly as they become due and payable. The City hereby covenants with the owners of the Bonds to levy such a tax in sufficient amount, together with such other revenues and resources as are pledged for such purpose, to pay the principal of and interest on the Bonds as they respectively become due and payable.

Section 7. Approval of Agreement. The Agreement for the purchase of the water utility system between the Company as the seller and the City as the purchaser and as attached to this Ordinance as Exhibit A and by this reference incorporated herewith is approved and the City Manager and the City Recorder are authorized and directed to execute the Agreement for and on behalf of the City, and the Deputy City Recorder shall attest thereto, and to deliver the Agreement to the Company and to proceed with the acquisition of the water utility system as set forth in the Agreement. In addition, the City Manager is authorized to proceed with the construction of and installation of certain improvements to and extensions of the water system when approved by the City Council.

Section 8. Mortgage of System. As provided by the Agreement the City is obligated to secure the payment of the purchase price of the water utility system by a first mortgage lien in favor of the Company encumbering the entire water utility system acquired under the Agreement. The City Manager and the City Recorder are authorized to execute an appropriate mortgage to and in favor of the Company, as the mortgagee. Provided, however, that pursuant to the terms and provisions of such encumbrance at such time as the purchase price has been paid in full such encumbrance shall be satisfied in full and discharged of record. The City authorizes the recording of the encumbrance in the mortgage records of Linn County, Oregon.

Section 9. Rate Pledge and Covenant. The City pledges to the payment of the Bonds the water revenues of the City's water utility system, after payment of the operation and maintenance expenses including the administrative overhead of the utility system ("Net Revenues"). The City covenants and agrees that it shall impose and collect such water user fees and charges and shall revise its rate structure, from time to time, as shall be necessary in order that the water revenues of the water utility system will be sufficient at all times to provide for the operation and maintenance and administrative expenses of the water system including the water treatment plant, maintenance and administrative costs and to provide Net Revenues not less than one times each fiscal year annual debt service on the Bonds. All use of the water system shall be subject to the full rates prescribed by the City, and no free use of the water system will be permitted.

Section 10. Creation of Debt Service Fund. The City does authorize the creation of a Debt Service Fund to which the City shall deposit monthly from the Net Revenues of the water utility 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 the principal of the Bonds to be retired at 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 funds so deposited are pledged irrevocably to be used only to pay the interest of and the principal on the Bonds.

Section 11. Creation of Reserve Account. The City does authorize the creation within the Debt Service Fund of a Reserve Account. The City covenants that it shall make deposits to the Reserve Account from its other sources, from time to time, and that on or before November 1, 1988 there shall be on deposit in the Reserve Account not less than One Million Dollars (\$1,000,000). The deposits to the Reserve Account are segregated and retained by the City for the sole purpose of providing funds for the payment of the costs and expenses, if any, incurred by the City on or before November 1, 1988 in the remarketing of the Bonds as hereinafter authorized, including payment of any price adjustments for such remarketing as may then be deemed reasonable and necessary by the City Council. If the City's Special Purchase Option and the Bondholders Special Put Option is not exercised on or before November 1, 1988 then the funds on deposit in the

Reserve Account shall be withdrawn from the Debt Service Fund be applied for its general water utility systems uses and purposes and the Reserve Account shall terminate.

Section 12. Investment of Fund. The moneys in the Debt Service Fund 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, excluding earnings of the Reserve Account, shall accrue to the Fund.

Section 13. Optional Redemption. The City reserves the right to call and redeem any or all of the outstanding Bonds, as a whole or in part, in inverse numerical order of maturity and by lot within a maturity on any interest payment date on or after November 1, 1998 at par value plus accrued interest to the date of redemption. Notice of redemption shall be given by registered or certified mail to the registered owner of the Bonds intended to be called for redemption thirty (30) days prior to the optional redemption date. The notice shall be mailed to the registered owner at the address of the registered owner appearing on the registration books of the City maintained by the Bond Registrar.

Section 14. Extraordinary Redemption. In the event the Company fails to deliver to the City good and sufficient legal and marketable title to the water utility system on or before December 31, 1984, then in such an event, all of the Bonds shall be subject to mandatory call and redemption by the City within fifteen (15) days after a determination by the City that legal and marketable title is not available for delivery to the City or December 31, 1984 whichever shall first occur. This extraordinary mandatory call shall be at par value plus accrued interest to the date of redemption. Notice of the call shall be given to the registered owner as provided in Section 13 herein.

Section 15. Mandatory Redemption. The Bonds maturing November 1, 2004 are subject to mandatory redemption prior to maturity, in part and by lot, as determined by the City on November 1, 2000 and on each November 1 thereafter, at par in the principal amounts as set forth below:

<u>Year</u>	<u>Principal Amount</u>
November 1, 2000	\$400,000
November 1, 2001	440,000
November 1, 2002	490,000
November 1, 2003	550,000
November 1, 2004	620,000

The Bonds maturing November 1, 2009 are subject to mandatory redemption prior to maturity, in part and by lot, as determined by the City on November 1, 2005, and on each November 1 thereafter at par in the principal amounts as set forth below:

<u>Year</u>	<u>Principal Amount</u>
November 1, 2005	\$665,000
November 1, 2006	750,000
November 1, 2007	790,000
November 1, 2008	860,000
November 1, 2009	935,000

Section 16. Special Options. (a) The City grants to the Registered Owner of the Bonds, a "Put" option whereby, upon the request of the Registered Owner on September 1, 1988 the City shall purchase all of the Bonds. Such Put option shall be effective as of November 1, 1988. Upon receipt of the Notice of this Put Option, the City shall exercise its Special Purchase Option as provided in subparagraph (b) of this Section.

(b) The Bonds are subject to a Special Purchase Option by the City in whole at any time on or before November 1, 1988 at the option of the City. In addition, in the event of the exercise by the Registered Owner of the "Put" option the City shall exercise its Special Purchase Option effective November 1, 1988. In the event of the exercise of either options, the City shall purchase the Bonds at par value plus accrued interest to the date of purchase.

(c) In the event of the exercise by the City of its Special Purchase Option, the City shall notify the City's Remarketing Agent of its intent to purchase all of the outstanding Bonds for remarketing. The Remarketing Agent shall proceed to remarket the Bonds in the secondary bond market at the best price obtainable under the circumstances then existing. The Remarketing Agent shall hold all moneys received by it from the sale of the Bonds, in trust, for the purchase of the Bonds. The City, the Registered Owner and the Remarketing Agent shall cooperate each with the other to arrange for the orderly receipt from the Company of the Bonds to be purchased, the payment therefor and the transfer and issue of new registered bonds to the purchasers thereof. The City shall authorize the withdrawal from the Reserve Account of such funds as may be necessary to finance the costs of the purchase of the Bonds and the remarketing and sale thereof. The remarketing

and sale of the Bonds shall be at the same interest rates for the interest payments due as the Bonds were initially issued.

Section 17. Sale of Bonds. The City Manager is authorized to establish a date of sale and to advertise the Bonds for public sale at a price not less than par value thereof and accrued interest to date of delivery. The Notice of Sale shall be published as provided by law. The Notice of Sale shall specify that the Company has agreed to bid for the Bonds at certain interest rates as set forth in the Preliminary Official Statement and that the City reserves the right to reject any and all bids, and in all other respects the Notice shall comply with the provisions of Chapter 287 Oregon Revised Statutes, as amended. The bids for the Bonds shall be based upon the net interest cost to the City. All rates bid must be in integral multiples of one-eighth or one-twentieth of one percent.

Section 18. Arbitrage. The proceeds of the Bonds shall be used and invested in such manner that the Bonds shall not become "arbitrage bonds" within the meaning of Section 103(c) of the Internal Revenue Code of 1954, as amended, and the regulations issued thereunder.

Section 19. Bond Counsel. Messrs. Rankin, McMurry, VavRosky & Doherty, of Portland, Oregon are hereby appointed Bond Counsel for the issuance of the Bonds.

Section 20. Preliminary Official Statement. The City shall prepare, with the assistance of its financial advisor, a Preliminary Official Statement for the Bonds, which shall be available for distribution to prospective bidders not later than the date on which the Notice of Bond Sale is first published. When advised by staff that the final Official Statement does not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements contained in the official statement not misleading in the light of the circumstances under which they are made, then the City Manager is authorized to certify the accuracy of the Official Statement on behalf of the City.


Section 21. Execution of Closing Documents. The City Recorder is authorized to execute the Arbitrage Certificates and any and all additional documents which may be reasonably required to issue, sell and deliver the Bonds.

Section 22. Call of Special Meeting. The Mayor and the City Council of the City of Albany do hereby call a special meeting of the City Council to be convened at 5:15 p.m. in the City Hall on Monday, October 29, 1984 for the purpose of acting upon bids received for the purchase of the Bonds.

Section 23. Emergency. In as much as this Ordinance is necessary for the immediate preservation of the peace, health and safety of the City of Albany, Oregon an emergency is hereby declared to exist and this Ordinance shall be in full force and effect immediately upon passage by the Council and approval by the Mayor.

Adopted by the City Council in open session this 10th day of October, 1984.

CITY OF ALBANY



Mayor

ATTEST:



City Recorder