

ORDINANCE NO. 4735

AN ORDINANCE OF THE CITY OF ALBANY, OREGON
AUTHORIZING THE ISSUANCE AND SALE OF
APPROXIMATELY \$8,990,000 ADVANCE REFUNDING
GENERAL OBLIGATION WATER BONDS, SERIES
1986; APPROVING AN ESCROW DEPOSIT
AGREEMENT; ESTABLISHING A RATE COVENANT;
DESIGNATING A PAYING AGENT AND BOND
REGISTRAR; AND DECLARING AN EMERGENCY.

Pursuant to Ordinance No. 4654, adopted by the City Council of the City of Albany, Oregon on October 10, 1984, the City of Albany, Oregon (the "City") issued its General Obligation Water Bonds, Series 1984 (the "Series 1984 Bonds") in the amount of \$9,800,000. Pursuant to Ordinance No. 4675 adopted by the City Council of the City on March 27, 1985, the City issued its Advance Refunding General Obligation Water Bonds in the amount of \$9,370,000 (the "Refunded Bonds"). The principal amount of \$9,370,000 of the Refunded Bonds is outstanding.

Oregon Revised Statutes 288.605 to 288.695, inclusive, (the "Act"), authorizes the issuance of advance refunding bonds, without an election, in order to effect a savings discounted to present value to a public body. Significant savings in debt service of the City may be obtained by the City by advance refunding the Refunded Bonds.

Pursuant to a Resolution of the City Council, an Advance Refunding Plan for the Refunded Bonds has been submitted to the office of the Oregon State Treasurer by Seattle-Northwest Securities Corporation, financial advisor to the City, (the "Financial Advisor") on behalf of the City.

NOW, THEREFORE, to reduce debt service of the Refunded Bonds, resulting in cost savings for the benefit of the people of the City and, subject to the review and authorization of the Oregon State Treasurer of the Advance Refunding Plan, it is necessary and desirable for the City to authorize the issuance and sale of Advance Refunding General Obligation Water Bonds, Series 1986, in an aggregate approximate principal amount of \$8,990,000.

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

Section 1. Issuance of Advance Refunding Bonds. The City Council of the City does hereby authorize the issuance of Advance Refunding General Obligation Water Bonds, Series 1986, in an approximate amount of \$8,990,000 (the "Advance Refunding Bonds").

The Advance Refunding Bonds are to be issued for the purpose of providing for the discharge payment and defeasance of the Refunded Bonds and to pay the costs of issuance of the Advance Refunding Bonds. The Advance Refunding Bonds shall be serial negotiable bonds of the City dated November 1, 1986 and shall bear interest payable semi-annually on the first day of May and the first day of November, commencing May 1, 1987 until final maturity or sooner redemption. The Advance Refunding Bonds shall be payable in funds 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 Advance Refunding Bonds. The Advance Refunding Bonds shall be entitled "City of Albany, Oregon, Advance Refunding General Obligation Water Bonds, Series 1986", and shall bear the facsimile signature of the Mayor of the City and the manual or facsimile signature of the City Recorder.

The Advance Refunding 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, provided, however, if in the opinion of the Finance Director, an expeditious delivery of the Advance Refunding Bonds must be made, the Bonds may be issued as a temporary bond in typewritten form to be exchanged for printed definitive bonds within twenty (20) days of closing the Bond sale, shall be numbered sequentially beginning with R-1, and shall mature on the first day of November, as follows:

<u>Maturity Date</u>	<u>Amount</u>	<u>Maturity Date</u>	<u>Amount</u>
1988	\$ 50,000	1999	\$440,000
1989	50,000	2000	475,000
1990	55,000	2001	510,000
1991	60,000	2002	550,000
1992	60,000	2003	600,000
1993	65,000	2004	650,000
1994	70,000	2005	700,000
1995	75,000	2006	760,000
1996	355,000	2007	820,000
1997	380,000	2008	890,000
1998	410,000	2009	965,000

Section 3. Change in Serial Maturities. The principal amount of the Bonds and the annual principal amounts of a Bond maturity may be increased or reduced, and the purchase price thereby adjusted, following the sale of the Advance Refunding Bonds if such change is necessary to maximize savings to the City. The Bonds maturing in the years 2001 and thereafter may be designated as Term Bonds not exceeding two term maturities. The Finance Director is authorized to approve any changes prior to the award of the sale.

Section 4. Optional Redemption. The City reserves the right to call and redeem any or all of the outstanding Advance Refunding Bonds, maturing after November 1, 1995, 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, 1995 at par value plus accrued interest to the date of redemption. Notice of redemption shall be given as provided by law and by registered or certified mail to the registered owners of the Advance Refunding 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 5. Mandatory Redemption. If the Bonds are designated Term Bonds as provided in Section 3 herein, the Term Bonds will be subject to mandatory redemption in the principal amounts and for the respective years on and after the year 2001 indicated in Section 2 herein, in part and by lot, at par plus accrued interest to the date of redemption on November 1 of each year prior to final maturity in which no serial or Term Bonds mature.

Section 6. Change in Principal Amount and Maturities. The annual principal amounts of the Advance Refunding Bond maturities may be modified in insubstantial amounts to provide for any changes in the principal amount of Advance Refunding Bonds as may be required for the purchase of sufficient Government Obligations for deposit into the Escrow Deposit Fund under the Escrow Deposit Agreement between the City and the Escrow Agent.

Section 7. Authorization of Finance Director to Modify Terms of Bond Issue. The City Council does authorize the Finance Director, for the purposes of the sale of the Bonds, to modify the terms of the Bonds as to the date of the Bonds, principal amount, and principal amounts of maturities of the Advance Refunding Bonds, all upon the recommendations of the Financial Advisor.

Section 8. Payment of Advance Refunding Bonds. The principal of the Advance Refunding Bonds shall be payable at maturity upon presentation of the Advance Refunding Bonds at the principal corporate trust 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 9. Designation of Paying Agent. The City Council does appoint and designate First Interstate Bank of Oregon, N.A., of Portland, Oregon, as the Paying Agent and Bond Registrar of the Advance Refunding Bonds. The Finance Director is authorized to negotiate and execute on behalf of the City a Paying Agent and Bond

Registrar Agreement. The Agreement shall provide for compliance with Oregon Administrative Rule 170-61-010. 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 Advance Refunding Bonds.

Section 10. Transfer or Exchange of Advance Refunding Bonds. The Advance Refunding 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 Advance Refunding 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 Advance Refunding Bonds shall evidence the same debt and entitled to the same benefits as the Advance Refunding 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

(a) to transfer or exchange any Bond after the close of business on the 15th day of the month next preceding any interest payment date, or

(b) to transfer or exchange any Advance Refunding Bond called or being called for redemption.

Section 11. Compliance with Advance Refunding Plan. In accordance with the Advance Refunding Plan, the City does authorize that the principal and maturing interest due on the Advance Refunding Bonds from date of issue to final maturity, or sooner redemption, shall be payable from unlimited direct ad valorem tax levies and from the net revenues of the City's water utility system, being the source of payment for the Series 1984 Bonds and the Refunded Bonds.

Section 12. Pledge of Tax Levy. The full faith and credit of the City are pledged to the successive owners of each of the Advance Refunding Bonds for the punctual payment of the principal of and interest on the Advance Refunding Bonds when due. The City hereby covenants with the owners of the Advance Refunding Bonds to levy annually, in sufficient amount less other revenues available therefore, 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 Advance Refunding Bonds promptly as they become due and payable.

Section 13. Rate Pledge and Covenant. The City pledges to the payment of the Advance Refunding 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 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's annual debt service on the Advance Refunding 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 14. Creation of Debt Service Fund. The City does authorize the creation of a Debt Service Fund and shall deposit the funds remaining, if any, in the debt service fund created by Ordinance Nos. 4654 and 4675 and thereafter shall deposit monthly from the Net Revenues of the water system an amount not less than one-sixth (1/6) of the amount required to pay the interest due on the Advance Refunding 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 Advance Refunding Bonds to be retired at the next forthcoming principal maturity or mandatory redemption 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 Advance Refunding Bonds. The funds so deposited are pledged irrevocably to be used only to pay the interest of and the principal on the Advance Refunding Bonds. Net Revenues not so deposited monthly in the Debt Service Fund and not needed to fund any deficiency in the Debt Service Fund may be used and applied by the City for capital improvements to the water utility system or for such other uses and purposes relating to the operation of, maintenance of, repair, restoration, enlargements or administrative expenses of the water utility system.

Section 15. Investment of Funds. 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 shall accrue to the Debt Service Fund.

Section 16. Use of Proceeds. The proceeds of the sale of the Advance Refunding Bonds shall be applied as follows:

(a) As provided in the Escrow Deposit Agreement dated as of November 1, 1986 and executed by and between the City and First Interstate Bank of Oregon, N.A., as Escrow Agent, there shall be deposited in the Escrow Deposit Fund certain Government Obligations as defined in the Act and cash initially transferred, sufficient in amount, that the maturing principal of and interest on such Government Obligations, together with other funds in the Escrow Deposit Fund, shall pay the maturing principal of and interest on the Refunded Bonds when and as they become due and to pay interest on the Advance Refunding Bonds in 1987.

(b) The balance of the Advance Refunding Bonds proceeds shall be used first to fund any deficiency in the Debt Service Reserve Account, second to pay administrative costs, expenses or fees incurred in the issuance of the Advance Refunding Bonds, and any remaining proceeds shall be deposited in the Debt Service Fund.

Section 17. Purchase of Government Obligations and Escrow Deposit Agreement. The Escrow Agent is authorized to purchase direct obligations of the United States Government ("Government Obligations") for the account of the Escrow Deposit Fund. The terms and provisions of the Escrow Deposit Agreement shall be as approved by the Finance Director and Bond Counsel and the Finance Director is authorized to execute the Escrow Deposit Agreement for and on behalf of the City.

Section 18. Irrevocable Call for Redemption of Refunded Bonds. Subject to the sale and delivery of the Advance Refunding Bonds, the creation of the Escrow Deposit Fund and the deposit of sufficient government obligations and other funds therein sufficient to advance refund the Refunded Bonds, the City does irrevocably call and redeem at the earliest redemption date of November 1, 1995 all of the Refunded Bonds then outstanding at par, plus premium together with accrued interest to the redemption date.

Section 19. Sale of Advance Refunding Bonds. The Finance Director is authorized to establish a date of sale and to advertise the Advance Refunding Bonds for public sale at a price not less than 99% of par value thereof plus accrued interest to date of delivery. The Notice of Sale shall be published as provided by law. 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 Advance Refunding Bonds shall be based upon the true interest cost to the City. All rates bid must be in integral multiples of one-eighth or one-twentieth of one percent. All Advance Refunding Bonds of the same maturity must bear a single rate of interest from

the date of issue to maturity. The interest rate named for any maturity of the Advance Refunding Bonds shall not be less than the interest rate named for the Advance Refunding Bonds of any prior maturity.

Section 20. Form of Advance Refunding Bonds. The Advance Refunding Bonds shall be issued substantially in the form as approved by the Finance Director.

Section 21. Printing of Advance Refunding Bonds. The Finance Director is authorized to contract for the printing of the Advance Refunding Bonds. The Finance Director may provide for the printing of, in addition to the original issue of Advance Refunding Bonds, additional bonds to be printed in blank form as to registration and to be designated by appropriate number for the Bond Registrar for delivery to the registered owner upon transfer or exchange of Advance Refunding Bonds. The additional bonds shall be dated as approved by the Finance Director and shall be signed by the facsimile signature of the present Mayor of the City and by the facsimile signature of the present City Recorder and the Bond Registrar shall manually sign the Certificate of Authentication as of the date of the transfer of the Advance Refunding Bonds.

Section 22. Arbitrage. The proceeds of the Advance Refunding Bonds shall be used and invested in such manner that the Advance Refunding Bonds shall not become "arbitrage bonds" within the meaning of Section 1301 of the Tax Reform Act of 1986 and the regulations issued thereunder.

Section 23. Bond Counsel. Messrs. Rankin, McMurry, VavRosky & Doherty, of Portland, Oregon are hereby appointed Bond Counsel for the issuance of the Advance Refunding Bonds.

Section 24. Financial Advisor. Seattle Northwest Securities Corporation is hereby designated as the financial advisor to the City. Provided the Municipal Bond Division of the Office of the Oregon State Treasurer waives its rule restricting the competitive bid by underwriters who have also acted as financial advisors, the City hereby approves of Seattle Northwest Securities Corporation competitively bidding on the sale of the Advance Refunding Bonds.

Section 25. Preliminary Official Statement. The City shall prepare, with the assistance of the Financial Advisor, a Preliminary Official Statement for the Advance Refunding Bonds. 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 26. Consent of Municipal Bond Insurance Association Required to Amend Ordinance. The City covenants it will not amend this Ordinance authorizing issuance of the Advance Refunding Bonds without the prior consent of Municipal Bond Insurance Association (the "Bond Insurer"), if the Bond Insurer has issued and has outstanding a policy of insurance insuring the payment of principal of and interest on the Advance Refunding Bonds.

Section 27. Event of Default. Failure to pay principal and interest on the Advance Refunding Bonds or failure to comply with the covenants of this Ordinance will constitute a default and the bondholders or the Bond Insurer may take any remedies legally available.

Section 28. Execution of Closing Documents. The City Manager or Finance Director is authorized to execute the Arbitrage Certificate and any and all additional documents which may be reasonably required to issue, sell and deliver the Advance Refunding Bonds.

Section 29. Maintenance of Water Utility System. The City will not dispose of or transfer its title to the water utility system nor merge the water utility system with the City's sewer system without consent of the Bond Insurer, if presently insured, or, if not insured, the consent of the registered bondholders of not less than two-thirds in aggregate principal amount of the Advance Refunding Bonds then outstanding. The City shall operate and maintain the water utility system in good condition and repair. The City covenants to maintain the water 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 water system without deduction for depreciation.

Section 30. Books and Records. The City shall maintain complete books and records relating to the operation of the water 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 Advance Refunding Bonds, or their designated representative, shall have the right to inspect the water system and the records, accounts and data of the City relating thereto.

Section 31. Emergency. In order that necessary procedures may be carried through in an orderly manner prior to the issuance of the Advance Refunding Bonds herein authorized and that the Advance Refunding Bonds may be issued promptly to secure the maximum anticipated debt service savings, 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 5th day of November, 1986.

Passed by City Council: November 5, 1986
Approved by Mayor: November 6, 1986
Effective Date: November 5, 1986



Mayor

ATTEST:



City Recorder