

AN ORDINANCE repealing Ordinance Number 819 adopted on December 2, 1974, and entitled "AN ORDINANCE authorizing the issuance of \$150,000 Waterworks Bonds of the City of Payette, Idaho, confirming the sale of said bonds, providing for the payment thereof through the levy of a tax, providing for publication of this ordinance, providing a covenant against waiver of the running of the election contest period relating to said bonds, making certain representations, certifications and covenants in connection with the use of the proceeds thereof, and ratifying proceedings taken in connection therewith" and authorizing AN ORDINANCE authorizing the issuance of \$150,000 Waterworks Bonds of the City of Payette, Idaho, confirming the sale of said bonds, providing for the payment thereof through the levy of a tax, providing for publication of this ordinance, providing a covenant against waiver of the running of the election contest period relating to said bonds, making certain representations, certifications and covenants in connection with the use of the proceeds thereof, and ratifying proceedings taken in connection therewith.

WHEREAS pursuant to the provisions of Ordinance Number 817 duly adopted by the City Council on August 5, 1974, an election was held in the City of Payette on September 24, 1974, at which election there was submitted to the duly qualified voters of the City the following question:

QUESTION: Shall the City of Payette, Idaho, issue and sell its negotiable coupon general obligation bonds to the amount of \$175,000 for the purpose of constructing extensions and improvements to the waterworks plant and water supply system of said city, as more fully provided in Ordinance Number 817 adopted August 5, 1974.

; and

WHEREAS said election was duly and properly called and held in compliance with all pertinent provisions of the Constitution and laws of the State of Idaho, and the results thereof were duly canvassed by the City Council at a meeting held on September 25, 1974, and it was determined that the proposition for the issuance of said \$175,000 Waterworks Bonds had been carried by a vote of 307 in favor and 31 against the proposition; and

WHEREAS thereafter/<sup>\$150,000 of</sup>said bonds were duly and properly advertised for sale on December 2, 1974, and bids for the purchase thereof received and said bonds were awarded to The Idaho First National Bank of Boise, Idaho, and associates; and

WHEREAS it is now desired to reconsider said award and in accordance with Section 57-216, Idaho Code, repeal Ordinance No. 819 adopted on said date and award said bonds to Continental Bank & Trust Co. of Salt Lake City, Utah and associates, being the bidder whose bid was the best bid therefor received on December 2, 1974, in that said bid contained the lowest net interest cost to the City; and

WHEREAS all things required by the Constitution and statutes of Idaho to be done prior to the issuance/<sup>of \$150,000</sup>of said bonds have been duly and lawfully done and it is now necessary to provide for the issuance of said bonds and the delivery thereof to the purchasers;

NOW, THEREFORE, Be It Ordained by the Mayor and Council of the City of Payette, Payette County, Idaho, as follows:

Section 1. That for the purpose for which they were voted and which is more particularly stated in the preamble hereto there shall be issued the negotiable Waterworks Bonds of the City of Payette in the principal amount of \$150,000. Said bonds shall be 30 in number, shall be dated January 1, 1975, shall be in the denomination of \$5,000, shall be numbered 1 to 30, inclusive, shall bear interest from date until paid payable January 1, 1976, and semi-annually thereafter on the first days of January and July in each year, shall be payable as to both principal and interest in lawful money of the United States of America at The Idaho First National Bank in the City of Payette, Idaho, and shall fall due serially in numerical order on January 1 of each year and shall be numbered and bear interest as follows:

<u>BOND NUMBERS</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>INTEREST RATE</u>
1	\$ 5,000	1977	7.00%
2	5,000	1978	7.00
3 & 4	10,000	1979	7.00
5 & 6	10,000	1980	7.00
7 thru 12	30,000	1981	7.00
13 & 14	10,000	1982	7.00
15 & 16	10,000	1983	7.00
17 thru 23	35,000	1984	6.50
24 thru 30	35,000	1985	6.50

Section 2. That the bonds shall be signed by the Mayor, shall be countersigned by the City Treasurer, shall be attested by the City Clerk (the signatures of said Mayor and City Treasurer to be by facsimile), shall have the facsimile of the corporate seal of the City printed thereon, the certificate of registration appearing on the backs of said bonds shall be signed by the City Clerk and the City Treasurer (the signatures of said City Clerk and City Treasurer to be by facsimile), and the said officials and each of them are hereby authorized and instructed to execute said bonds accordingly. Interest falling due thereon on and prior to maturity shall be represented by appropriate interest coupons to be thereto attached, which coupons shall be signed by the City Treasurer by his facsimile signature, and the printed facsimile signatures of the Mayor and Treasurer are hereby adopted and approved as the authorized and authentic signing and execution of said bonds and coupons by said officials.

Section 3. That the bonds and coupons and the form of registration certificate to be endorsed thereon shall be in substantially the following form:

(Form of Bond)

UNITED STATES OF AMERICA  
STATE OF IDAHO  
COUNTY OF PAYETTE  
CITY OF PAYETTE  
WATERWORKS BONDS

NUMBER \_\_\_\_\_

\$5,000

The City of Payette, in the County of Payette and State of Idaho, for value received acknowledges itself to be indebted and hereby promises to pay to bearer, ~~without option of prior redemption,~~ the sum of Five Thousand Dollars (\$5,000) on the first day of January, 19\_\_\_\_, with interest thereon, at the rate of \_\_\_\_\_ per cent (\_\_\_\_%) per annum from date until paid, payable on January 1, 1976, and semiannually thereafter on the first days of January and July in each year, upon presentation and surrender of the annexed coupons as they respectively become due. Both principal and interest hereon are payable in lawful money of the United States of America at The Idaho First National Bank in the City of Payette, Idaho.

This bond is one of an authorized issue of \$150,000 voted at an election on September 24, 1974, by more than a two-thirds majority of the qualified electors of said city for the purpose of constructing extensions and improvements to the waterworks plant and water supply system of said city, and is issued in conformity with and after full compliance with the Constitution of the State of Idaho and Chapter 10 of Title 50 and Chapter 2 of Title 57 of the Idaho Code, 1947, and the amendments thereto, and all other laws applicable thereto.

It is hereby certified, recited and declared that the full faith, credit and all taxable property within the City of Payette, Idaho, are and shall continue to be pledged for and until the full payment of the principal of and interest on this bond, that every requirement of law relating to the issue thereof has been duly complied with, that this bond is within every debt and other limit prescribed

by law and the Constitution, and that provision has been made for the collection of an annual tax fully sufficient to pay the Interest on this bond as it falls due and also to pay the principal hereof when due.

IN WITNESS WHEREOF, the City of Payette, County of Payette, and State of Idaho, has caused this bond to be signed by the Mayor of said city, countersigned by its City Treasurer and attested by its City Clerk, (the signatures of said Mayor and City Treasurer being by facsimile) and the facsimile of the seal of the City to be printed hereon, and the coupons hereto attached to be signed with the facsimile signature of said City Treasurer, as of the first day of January, 1975.

\_\_\_\_\_  
(Facsimile Signature)  
Mayor

Countersigned:

\_\_\_\_\_  
(Facsimile Signature)  
City Treasurer

Attest:

\_\_\_\_\_  
City Clerk

(Form of Coupon)

Number \_\_\_\_\_ \$ \_\_\_\_\_

~~This xxxxxx bond is xxxxxx and has been duly~~  
~~xxxxx for xxxxx redemption and provision for the redemption thereof duly made.~~ The City of Payette, in the County of Payette, and State of Idaho, will pay to bearer hereof the amount shown hereon in lawful money of the United States of America on the first day of \_\_\_\_\_, 19\_\_\_\_, at The Idaho First National Bank in the City of Payette, Idaho, being the interest then due on its Waterworks Bond, dated January 1, 1975, and numbered \_\_\_\_\_.

\_\_\_\_\_  
(Facsimile Signature)  
City Treasurer

(Registration Certificate)

We, the undersigned City Clerk and City Treasurer of the City of Payette, Idaho, do hereby certify that the within bond has been duly registered in permanent public record books kept in our respective offices for the purpose of

such registration, in full compliance with the provisions of Title 57, Chapter 2, Idaho Code, 1947, and laws amendatory thereof, such registration showing the number, date, amount of the bond, rate of interest thereon, date of maturity, place of payment and the number and denomination of the attached coupons, and the names of the purchasers and date of the delivery of the bond; and the undersigned City Treasurer does hereby certify that before the delivery of this bond he received the proper consideration therefor.

IN WITNESS WHEREOF, we have subscribed our official hands.

(Facsimile Signature)

City Treasurer

(Facsimile Signature)

City Clerk

Section 4. That to pay interest on said bonds falling due to and including July 1, 1976, there shall be levied in the year 1975 on all taxable property within the City of Payette, in addition to all other taxes, a direct ad valorem tax sufficient to produce the sum of \$15,225.00, and thereafter to pay the interest on said bonds as the same falls due and also to pay the principal of said bonds as the same matures, there shall be levied on all taxable property in said city, in addition to all other taxes, a direct annual ad valorem tax in years and amounts as follows:

<u>YEAR</u>	<u>PRINCIPAL</u>	<u>INTEREST</u>	<u>TOTAL</u>
1976	\$ 5,000	\$9,975.00	\$14,975.00
1977	5,000	9,625.00	14,625.00
1978	10,000	9,100.00	19,100.00
1979	10,000	8,400.00	18,400.00
1980	30,000	7,000.00	37,000.00
1981	10,000	5,600.00	15,600.00
1982	10,000	4,900.00	14,900.00
1983	35,000	3,412.50	38,412.50
1984	35,000	1,137.50	36,137.50

Said taxes in each of said years shall be and are hereby certified to the County Auditor of Payette County on or before the second Monday of September of each year in addition to all other tax rates so certified. It is specifically provided, however, that the City of Payette may apply to the payment of principal of and interest on said bonds any funds lawfully available therefor which may be derived from other sources; but the aforementioned taxes shall never be diminished prior to payment of all of the bonds herein authorized except, in any year, to the extent that other available funds shall have been applied to or

set aside in a special fund to be irrevocably held for the payment of principal or interest or both payable from said taxes for such year.

The taxes herein levied shall be in addition to all other taxes levied by the City, and shall be levied, assessed and collected in the same manner and at the same time in each year as other city taxes are levied, assessed and collected. The full faith, credit and all taxable property in the City of Payette are and shall continue pledged to the punctual payment of principal of and interest on said bonds, and any such principal or interest falling due at a time or times at which proceeds of the taxes herein levied are not available in an amount sufficient to pay such principal or interest, shall be paid from the general fund of the City of Payette and reimbursement to the general fund made from the proceeds of said taxes when they shall have been collected.

Section 5. That the sale of the bonds herein authorized to Continental Bank & Trust Company of Salt Lake City, Utah, and associates, at the price of par and accrued interest to the date of delivery plus a premium of \$16.10 is hereby in all respects ratified, approved and confirmed. That the bonds herein authorized shall be prepared and executed as soon as may be after the adoption hereof and shall be thereupon delivered to said purchasers upon payment therefor in accordance with the terms of sale.

Section 6. The principal proceeds of the sale of said bonds shall be devoted to and used with due diligence for the completion of the facilities for which said bonds are hereby authorized to be issued. The Mayor and City Council represent and certify that:

(1) the said city will have incurred within six months after delivery of the bonds substantial binding obligations with respect to said facilities, said binding obligations comprising of construction contract and other related agreements

in the total amount of not less than 2-1/2% of the estimated total cost of said facilities;

(2) the Mayor and City Council expect that over 85% of the spendable proceeds of said bonds will be expended on or before January 1, 1978, for the purpose of paying the cost of said facilities, said date being within three years following the date of issue of said bonds;

(3) work on the said facilities is expected to proceed with due diligence to completion;

(4) said facilities have not been and are not expected to be sold or otherwise disposed of in whole or in part prior to the last maturity of said bonds;

(5) all of the principal proceeds of the bonds are needed for the purpose stated in the form of bond above set out, including expenses incidental to such purpose and to the issuance of the bonds; and

(6) to the best of the knowledge and belief of the Mayor and City Council there are no facts, estimates or circumstances that would materially change the conclusions and representations set out in this section.

Said Mayor and City Council also certify and further covenant with the purchasers and holders of said bonds from time to time outstanding that so long as any of said bonds remain outstanding, moneys on deposit in any fund or account in connection with said bonds, whether or not such moneys were derived from the proceeds of the sale of said bonds or from any other sources, will not be used in a manner which will cause such bonds to be "arbitrage bonds" within the meaning of Section 103(d) of the Internal Revenue Code of 1954, as amended, and any lawful regulations promulgated or proposed thereunder, including Sections 1.103-13 and 1.103-14 of the Income Tax Regulations (26 CFR Part 1), as the same presently exist, or may from time to time hereafter be amended, supplemented or revised. The Mayor and City Council reserve the right, however, to make any investment of such moneys permitted by state law, if, when and to the extent that said Section 103(d) or regulations promulgated thereunder shall be repealed or relaxed or shall be held void by final decision of a court of competent jurisdiction, but only if any investment made by virtue of such repeal, relaxation or decision would not, in the opinion of counsel of recognized competence in such matters, result in making the interest on said bonds subject to federal income taxation.

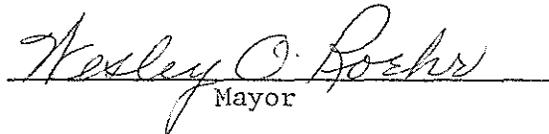
Section 7. That all proceedings heretofore had in connection with the authorization of said bonds, including the proceedings had in connection with the election at which they were voted, the canvass of the results thereof, the publication and mailing of the notice of sale of said bonds as said notice was published, and mailed to the State Auditor, and the proceedings had in connection with the sale of the bonds, are hereby ratified, approved and confirmed.

Section 8. That all ordinances and resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and Ordinance Number 819 adopted on December 2, 1974, is hereby specifically repealed, and that this ordinance shall be published in one issue of The Independent-Enterprise, the official newspaper of said city, and shall take effect and be in full force immediately upon its passage, approval and publication.

Section 9. That the Mayor and City Council and the City of Payette, in consideration of the purchase of said bonds by the aforesaid purchasers, hereby covenant and agree with the holders of the bonds from time to time, that neither the city nor the Mayor and City Council of said city will ever waive, or agree to waive, as to the September 24, 1974, bond election, the time limitation provisions of subsection B of Section 34-2001A of the Idaho Code.

Section 10. That if any section, paragraph, clause or provision of this ordinance shall ever be held invalid or unenforceable, such holding shall not affect the remainder of this ordinance, which shall continue in force and effect to the same extent as if said invalid or unenforceable portion had not been included herein.

Passed and approved December 3, 1974.

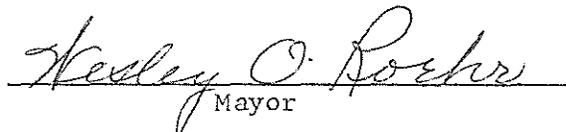
  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

(Other business not pertinent to the above appears in the minutes of the meeting.)

Pursuant to motion duly made and carried, the meeting was adjourned.

  
\_\_\_\_\_  
Mayor

Attest:

  
\_\_\_\_\_  
City Clerk

STATE OF IDAHO     )  
                          )  
COUNTY OF PAYETTE )

I, Barbara A. Millard, do hereby certify that I am the duly qualified and acting Clerk of the City of Payette, Payette County, Idaho.

I further certify that the above and foregoing constitutes a true and correct copy of the minutes of a special meeting of the City Council of the City of Payette, Idaho, held on December 3, 1974, and of an ordinance adopted at said meeting as said minutes and ordinance are officially of record in my

possession.

IN WITNESS WHEREOF, I have hereunto subscribed my official signature and impressed hereon the seal of said city, this 3<sup>rd</sup> day of December, 1974.

Barbara McLeod  
City Clerk

(SEAL)