

## RESOLUTION No. 19/20-06

A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF DAYTON, YAMHILL COUNTY, OREGON, INSTALLMENT WASTEWATER REVENUE BOND IN THE PRINCIPAL SUM OF \$2,300,000 TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE, RURAL UTILITIES SERVICE, FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF ACQUISITION, CONTRUCTION, IMPROVEMENT AND EXTENSION OF A WASTEWATER SYSTEM WITHIN AND WITHOUT THE BOUNDARIES OF THE CITY OF DAYTON, YAMHILL COUNTY, OREGON; PROVIDING FOR THE FORM AND TERMS OF SAID BOND; AND AUTHORIZING THE PAYMENT OF SAME.

WHEREAS, the City Council of the City of Dayton, Yamhill County, Oregon (the "City"), has been duly authorized by RUS Bulletin 1780-27 Loan Resolution dated October 7, 2019 and Ordinance No. 632 dated February 1, 2016 to issue an Installment Wastewater Revenue Bond in an aggregate amount not to exceed the sum of \$2,500,000 (the "Bond") in excess of any existing bond issue, for the purpose of financing improvements to the City's wastewater system including, but not limited to: (1) replacement of the main sewer pump station at the footbridge, (2) replacement of sewer mainlines, (3) replacement of the Highway 221 sewer lift station, and (4) pay the costs of issuance of the Bond and any interim financing, hereinafter called the "Facility" and,

WHEREAS, the City Staff has been directed to proceed in accordance with law to issue the Bond, and concurrently therewith and subsequent thereto the City has commenced negotiations with the United States of America acting through the United States Department of Agriculture, Rural Utilities Service, hereinafter called "Agency", for financial assistance to construct said Facility, and,

WHEREAS, said Agency has indicated a desire to consider said financial assistance and as a result, it is necessary to cause the execution and delivery of installment bonds or other evidence of indebtedness to secure any loan or loans made, or insured, by the Agency and to comply with any requirements, terms, and conditions prescribed by the Agency or by Agency regulations and to execute contracts or enter into agreements and to take any and all other action as may be necessary, incidental or appropriate to finance, construct, complete, equip, extend or improve the Facility for and on behalf of the City;

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

Section 1. It is necessary to defray the costs of the acquiring, constructing and equipping the Facility by obtaining a loan made by the Agency in accordance with the applicable provisions of the Rural Development Act of 1972, it being determined by the Agency that the City is unable to obtain sufficient credit elsewhere to finance the purchase of the Facility taking into consideration prevailing private and cooperative rates and terms concurrently available.

Section 2. That the City borrow in the aggregate amount not to exceed the sum of \$2,300,000 and issue as evidence thereof an Installment Wastewater Revenue Bond (the "Bond") for the full

principal amount of the loan. The Bond shall be dated with the date of delivery thereof and shall be in substantially the following form:

NO. 1

\*\*\*\$2,300,000\*\*\*

UNITED STATES OF AMERICA  
STATE OF OREGON

CITY OF DAYTON  
YAMHILL COUNTY, OREGON  
INSTALLMENT WASTEWATER REVENUE BOND, SERIES 2019

KNOW ALL MEN BY THESE PRESENTS: the City of Dayton, Yamhill County, Oregon, hereinafter called the "Borrower," hereby acknowledges itself indebted and for value received promises to pay to the order of the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service, hereinafter called the "Agency," the principal sum of Two Million Three Hundred Thousand Dollars (\$2,300,000) plus interest on the unpaid principal balance at the rate of 1.8750% per annum. The said principal and interest shall be payable in the following installments on or before the following dates:

The sum of \$82,248.00 commencing December 6, 2020 and annually thereafter on the 6<sup>th</sup> day of December until the principal and said interest are fully paid, except that the final installment of the entire indebtedness evidenced hereby, if not sooner paid, shall be due and payable forty (40) years from the date of this Bond.

Prepayments of scheduled installments, or any portion thereof, may be made at any time at the option of Borrower. Refunds, extra payments and loan proceeds obtained from outside sources for the purpose of paying down the Agency debt, shall, after payment of interest, be applied to the principle.

Prepayments shall not affect the obligation of Borrower to pay the remaining installments as scheduled in the security instruments.

This Bond shall be registered as to principal and interest in the name of the United States of America in an appropriate book in the office of the City Recorder of the Borrower, each registration to be noted on the Bond Registration Certificate attached hereto by said City Recorder and no transfer hereof shall be valid unless made on said book and similarly noted on the Bond Registration Certificate.

Both the principal and interest shall be paid to the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service as such registered holder, electronically by the Pre-Authorized Debit System.

Default hereunder shall constitute default under any other instrument evidencing a debt of Borrower owing to or insured by the Agency or securing or otherwise relating to such a debt, and default under any other such instrument shall constitute default hereunder, and upon default the Agency, at its option, may declare all or any part of said indebtedness immediately due and payable.

This Bond is given as evidence of a loan to Borrower made by the Agency pursuant to the Rural Development Act of 1972, as amended, and shall be subject to the present regulations of the United States of America and to its future regulations not inconsistent with the express provisions hereof.

This Bond is authorized by virtue of Ordinance No. 632 enacted by the City Council on February 1, 2016, notice of which was duly published as provided by law, the applicable provisions of Oregon Revised Statutes (“ORS”) Chapter 287A, and Resolution No. 19/20-06 of the City adopted by the City Council on October 7, 2019 (the “Resolution”).

This Bond and the interest thereon are payable solely from the unobligated and legally available net revenues of the wastewater utility system of the Borrower and neither the Bond nor the payment of interest impose any general liability upon the said City for the payment thereof out of any monies other than unobligated and legally available net revenues of the wastewater utility system. It is hereby covenanted by the Borrower that so long as this Bond shall be outstanding and unpaid, the City Council of the Borrower shall fix and collect charges for wastewater services, such as to provide revenue sufficient to pay, as the same shall become due, the principal and interest of this Bond, in addition to paying, as the same become due, the necessary expenses of operating, maintaining, renewing and replacing the wastewater utility system of said City, and appropriate reserve funds for such purposes and all other obligations and indebtedness payable out of the legally available revenues of said wastewater utility system.

This Bond is exchangeable at the sole expense of the Borrower at any time, upon ninety (90) days’ written notice, at the request of the registered owner hereof, and upon surrender of this Bond to the Borrower at the office of the City Recorder of the Borrower for registered bonds of the denomination of \$5,000 each, or integral multiples thereof, in the aggregate principal amount equal to the unpaid principal amount of the Bond, and bearing interest on the unpaid principal balances at the rate of 1.8750% per annum.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this Bond, together with all obligations of the Borrower, does not exceed any limits prescribed by the Constitution and Statutes of the State of Oregon and the Charter, Ordinances and Resolutions of the Borrower.

IN WITNESS WHEREOF, the City of Dayton, Yamhill County, Oregon has caused this Bond to be signed by the Mayor of the Borrower and attested by the City Recorder of the Borrower, all on the 6<sup>th</sup> day of December, 2019.

CITY OF DAYTON  
YAMHILL COUNTY, OREGON

By   
Elizabeth Wytoski, Mayor

ATTEST:

  
Patty Ringnald, City Recorder

BOND REGISTRATION

DATE: December 6, 2019

Registered in the name of:

United States of America, acting through the  
United States Department of Agriculture

  
City Recorder

Section 3. The unobligated and legally available net revenues of the Facility, after payment of the ordinary operation and maintenance expenses thereof, hereby are pledged to the payment of the principal of and interest upon the said bond.

The funds derived from such sources shall be carried by the Recorder of the City in a separate book account to be designated CITY OF DAYTON WASTEWATER BOND FUND and shall be expended only in the payment of the principal of and interest on said City of Dayton, Oregon Wastewater Revenue Bond No. 1 until all of said obligations and any that may be issued to refund them have been fully paid and redeemed or until the provisions for the payment or redemption thereof have been made.

Section 4. The Finance Director shall be the custodian of all funds of the Facility and all funds shall be deposited in a bank which is a member of the Federal Deposit Insurance Corporation. The Finance Director shall execute a Fidelity Bond in an amount not less than \$82,248 with a surety company approved by the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service, and the amount thereof shall not be reduced without the prior written consent of the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service. The Finance Director is hereby directed to establish the following accounts into which the current funds of the Facility, the Revenues from the Facility and other income shall be deposited, which accounts shall be continually maintained, except as otherwise provided, so long as the Bond hereby authorized remains unpaid.

(a) Construction Account. The proceeds of the bonds hereby authorized and any interim financing acquired shall be deposited in the Construction Account. Amounts in the Construction Account exceeding \$100,000.00 shall either be secured by the depository bank in advance in accordance with State and Federal law or deposited in the Oregon Local Government Investment Pool.

Withdrawal from the Construction Account shall be made only on checks signed by the City Manager of the City, or his or her designee, as authorized by the City Council, countersigned by the Mayor or other authorized City Official and only for the purposes for which said bonds were issued as specified in the estimate of costs. The City's share of any liquidated damages and other monies paid by defaulting contractors or their sureties will be deposited in the Construction Account to assure completion of the project. When the construction of the Facility has been completed or all construction costs have been paid in full, any balance remaining in the Construction Account shall be used to pay outstanding installments on the bond in inverse order without premiums. The Construction Account shall then be closed.

(b) Revenue Account. The gross revenues shall be set aside into a separate account to be designated the Revenue Account, and monies so deposited therein shall be expended and used only in the manner and order as follows:

1. Operation and Maintenance Account (bookkeeping account). There shall be set aside and deposited each month, before any other expenditures therefrom, a sufficient portion of the monies in the Revenue Account to pay the reasonable and necessary current expenses of operating and maintaining the Facility for the current month.

2. Debt Service Account (bookkeeping account). After the transfer required in item 1 above, there shall be transferred each month from the Revenue Account, before any other expenditures or transfer therefrom, and deposited in the Debt Service Account for payment of the annual installment of the bond, a sum equal to at least one-twelfth of the annual installment becoming due on the next succeeding 6<sup>th</sup> day of December. If the City for any reason shall fail to make such monthly deposit, then an amount equal to the deficiency shall be set apart and deposited in the Debt Service Account out of the gross revenues in the

ensuing month or months, which amount shall be in addition to the regular monthly deposit required during each succeeding month or months.

Whenever there shall accumulate in the Debt Service Account amounts in excess of the requirements during the next twelve months for paying principal and interest on outstanding bond installments, and in the Operation and Maintenance Account and the Reserve Account hereinafter established amounts in excess of the requirements thereof, such excess may be used by the City to make prepayments on the bond.

3. Reserve Account (bookkeeping account). A debt service reserve fund must be established equal to at least one annual installment. The City has chosen to prefund this account in the amount of \$82,248. The Reserve Account shall be used and disbursed only for the purpose of paying the cost of repairing or replacing any damage to the Facility which may be caused by any unforeseen catastrophe and when necessary for the purpose of making payments of principal and interest on the bonds hereby authorized in the event the amount of the Debt Service Account is insufficient to meet such payments. Approval by Rural Utilities Service is required prior to the use of the Reserve Account funds.

When funds are withdrawn during the life of the loan, deposits will commence at the rate of 10% of one annual payment per year for ten years or until the balance is equal to one annual loan payment. Ten percent of the loan installment would equal \$685.40 per month; this amount should be deposited monthly until a total of \$82,248 has been accumulated.

4. Short Lived Asset Replacement Account (bookkeeping account). There shall be set aside and deposited in the Short Lived Asset Replacement Account the sum of \$14,544.00 annually. The Short Lived Asset Replacement Account shall be used and disbursed only for the purpose of replacing facility assets with an estimate life of less than fifteen years. Agency concurrence is not required to use the funds in the Short Lived Asset Replacement Account for the stated purpose.

Section 5. The City covenants and agrees that so long as the Bond hereby authorized remains unpaid:

(a) It will indemnify the Agency for any payments made or losses suffered by the Agency as a result of or in connection with the Facility.

(b) It will comply with applicable state laws and regulations and continually operate and maintain the Facility in good condition.

(c) It will impose and collect sufficient rates and charges for use of the Facility to provide for the operation and maintenance thereof and the payments on the bond hereby authorized and the maintenance of the various funds herein created; that all use of the Facility shall be subject to the full rates prescribed in the rules and regulations of the City; and that no free use of the Facility will be permitted.

(d) It will maintain complete books and records relating to the operation of the Facility 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, and will furnish the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service, without request, a copy of each annual audit report. At all reasonable times the United States of America, acting through the United States Department of Agriculture, Rural Utilities Service, shall have the right to inspect the Facility and the records, accounts and data of the City relating thereto.

(e) It will maintain such insurance coverage as may be required by the Agency.

(f) It will not borrow money from any source or enter into any contract or agreement or incur any other liabilities in connection with making extensions or improvements to the Facility exclusive of normal maintenance without obtaining the prior written consent of the Agency.

(g) It will not dispose of or transfer its title to the Facility or any part thereof, including lands and interest in lands, by sale, mortgage, lease or other encumbrance, without obtaining the prior written consent of the Agency.

(h) It will cause to be levied and collected such assessments as may be necessary to operate and maintain the Facility in good condition and meet payments on the bonds when the same become due if, for any reason, gross revenues are insufficient

Section 6. If at any time it shall appear to the Agency that the City is able to refinance the amount of the Bond then outstanding, in whole or in part, by obtaining a loan for such purposes from responsible cooperative or private credit sources, at reasonable rates and terms for loans for similar purposes and periods of time, the City will, upon request of the Agency, apply for and accept such loan in sufficient amount to repay the Agency and will take all such actions as may be required in connection with such loan.

Section 7. The City hereby designates the Bond for purposes of paragraph (3) of Section 265(b) of the Code as a “qualified tax-exempt obligation” and covenants that the Bond does not constitute a private activity bond as defined in Section 141 of the Code, and that not more than \$10,000,000 aggregate principal amount of obligations, the interest on which is excludable under Section 103(a) of the Code from gross income for federal income tax purposes (excluding, however, private activity bonds other than qualified 501(c)(3) bonds) including the Bond, have been or shall be issued by the City, including all subordinate entities of the City, if any, during the calendar year 2019.

Section 8. The Mayor or City Manager of the City is hereby authorized and directed to execute for and on behalf of the City Form RD 400-1, “Equal Opportunity Agreement”, Form

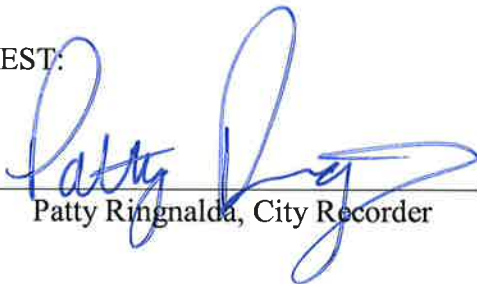
RD 400-4, "Assurance Agreement", as required by the provisions of Title VI of the Civil Rights Act of 1964, RUS Bulletin 1780 27, "Loan Resolution", Form RD 442-21, "Right-of-Way Certificate", Form RD 1942-46, "Letter of Intent to Meet Conditions", Form RD 1910-11, "Applicant Certification Federal Collection Policies for Consumer or Commercial Debts", Form RD 1924-18, "Partial Payment Estimate", Form AD-1047, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters B Primary Covered Transactions", Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions", and if RUS development grant is involved, RUS Bulletin 1780-12, "Water or Waste System Grant Agreement", and Form AD-1049, Certification Regarding Drug-Free Workplace Requirements (Grants)".

ADOPTED by the City Council of the City of Dayton, Yamhill County, Oregon this 7<sup>th</sup> day of October, 2019.

CITY OF DAYTON  
YAMHILL COUNTY, OREGON

By   
Elizabeth Wytoski, Mayor

ATTEST:

  
Patty Ringnald, City Recorder