

ORDINANCE NO. 138

AN ORDINANCE OF THE CITY OF PECK, NEZ PERCE COUNTY, IDAHO, AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF WATER REVENUE REFUNDING BONDS, SERIES 1999, IN THE PRINCIPAL AMOUNT OF \$34,000, FOR THE PURPOSE OF PAYING, CURRENTLY REFUNDING, AND RETIRING THE CITY'S OUTSTANDING WATER REVENUE BOND OF 1975; DESCRIBING THE REFUNDING BONDS; PROVIDING TERMS AND COVENANTS RELATING TO THE REFUNDING BONDS; PROVIDING FOR THE PAYMENT AND REDEMPTION OF THE CITY'S OUTSTANDING BOND; PROVIDING FOR THE SALE AND DELIVERY OF THE REFUNDING BONDS; PROVIDING FOR RELATED MATTERS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Peck, Nez Perce County, Idaho (the "City"), is a municipal corporation duly organized and operating under the laws of the State of Idaho; and

WHEREAS, the City now has outstanding its Water Revenue Bond of 1975, (the "1975 Bond"), issued, pursuant to Ordinance No. 63, adopted on August 12, 1975, in the original principal amount of \$120,000, the principal amount of \$40,125.78 of which remains outstanding and which is payable in annual installments until January 1, 2005; and

WHEREAS, the City is authorized by the Constitution and laws of Idaho to issue refunding bonds to redeem, retire, and currently refund its outstanding bonds whenever the Mayor and Council determine that a savings or other beneficial public objective can be achieved thereby, without an approving vote of the electors of the City, and to sell such refunding bonds at private sale; and

WHEREAS, Ordinance No. 63, pursuant to which the 1975 Bond was issued, sold, and delivered, reserves the right of the City to redeem the 1975 Bond on any interest payment date on or after ten years from the date of the 1975 Bond; and

WHEREAS, the Mayor and Council have determined that it is in the best interests of the City and its water ratepayers to refund and retire its 1975 Bond in order to achieve a beneficial public objective, and the Mayor and Council desire to issue the refunding bonds of the City (the "Bonds") for such purpose;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PECK, Nez Perce County, Idaho, as follows:

Section 1: DEFINITIONS

As used in this Ordinance, the following words shall have the following meanings:

A. Acquisition or Acquire includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift, grant from the Federal Government, the State, any public body therein or any person or entity, the condemnation, transfer, option to purchase, other contract, or other acquirement, or any combination thereof.

B. Additional Bonds means any bonds issued pursuant to Section 15 of this Ordinance.

C. Bonds means the principal amount of \$34,000 "City of Peck Water Revenue Refunding Bonds, Series 1999," herein authorized to be issued, sold, and delivered.

D. Bond Fund means the "City of Peck Water Revenue Bond Fund" created by Ordinance No. 63, adopted on August 12, 1975, and referred to and redesignated in Section 12 of this Ordinance.

E. Bond Register means the registration books on which are maintained the names and addresses of the owners or nominees of the owners of the Bonds.

F. Bond Registrar means the bond registrar, transfer agent, and authenticating and paying agent appointed and designated in Section 3 of this Ordinance.

G. City means the City of Peck, Nez Perce County, Idaho.

H. City Clerk means the Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the City, or his/her successor in functions, if any.

I. Council means the City Council of the City.

J. Estimated Net Revenues means, for any year, the estimated Revenues of the System for such year less the estimated Operation and Maintenance Expenses for such year, based upon estimates prepared by the City Engineer or an independent engineer. In computing Estimated Net Revenues, Revenues of the System may be adjusted as necessary to reflect any changed schedule of rates and charges.

K. Mayor means the Mayor of the city, or his/her successor in functions, if any.

L. Net Revenues means Revenue of the System after the deduction of Operation and Maintenance Expenses.

M. Operation and Maintenance Expenses or any phrase of similar import means all reasonable and necessary current expenses of the City, paid or accrued, of operating, maintaining, and

repairing the System or of levying, collecting, and otherwise administering the Net Revenues for the payment of the Bonds; and the term includes (except as limited by contract or otherwise limited by law) without limiting the generality of the foregoing:

(1) Engineering, auditing, reporting, legal, and other overhead expenses of the City directly relating and reasonably allocable to the administration of the System:

(2) Fidelity bonds and property and liability insurance premiums pertaining to the System, or a reasonably allocable share of a premium of any blanket bond or policy pertaining thereto;

(3) Payments to pension, retirement, health, and hospitalization funds and other insurance;

(4) Any taxes, assessments, excise taxes, or other charges which may be lawfully imposed on the City, the System, revenues therefrom, or any privilege in connection with their operation;

(5) The reasonable charges of the bond registrar, fiscal or paying agent, commercial bank, trust bank, or other depository bank pertaining to the Bonds issued by the City or pertaining to the Project, if any;

(6) Contractual services, professional services, salaries, other administrative expenses, and the cost of materials, supplies, repairs, and labor, pertaining to the issuance of the Bonds and to the ordinary operation of the System; and

(7) All other administrative, general, and commercial expenses.

N. Ordinance or Bond Ordinance shall mean this Ordinance No. 138, adopted on December 8, 1999.

O. Refunding Account means the special fund created by Section 8 of this Ordinance, into which the proceeds of the Bonds shall be deposited, and from which the 1975 Bond shall be paid.

P. Registered Owner(s) means the purchaser(s) of the Bonds and any subsequent transferee(s) or purchaser(s) of the Bonds.

Q. Reserve Fund means the Debt Service Reserve Fund created by Ordinance No. 63 of the City, adopted on August 12, 1975, and referred to and redesignated in Section 13 of this Ordinance.

R. Revenue Fund means the "City of Peck Water Revenue Fund" created by Section 11 of this Ordinance.

S. Revenue of the System means all revenues received by the City from its System and may include, at the discretion of the City, moneys derived from one, all, or any combination of revenue sources pertaining to the System, including, without limitation, rates, charges, rents, fees, and any other income derived from the operation or ownership of, the use of services of, or the availability of or services pertaining to, or otherwise derived in connection with, the System or all or any part of any property pertaining to the System.

T. System means the domestic water system of the City, as the same now exists, including its assets, real and personal, tangible and intangible, and as it may later be added to, extended, and improved, and shall include buildings, structures, utilities, or other income producing water facilities from the operation of or in connection with which the revenues for the payment of the Bonds to be issued hereunder will be derived, and the lands pertaining thereto.

U. Treasurer means the Treasurer of the City, or his/her successor in functions, if any.

V. 1975 Bond means the City of Peck Water Revenue Bond of 1975, issued in the original principal amount of \$120,000, as authorized by Ordinance No. 63, adopted on August 12, 1975.

Section 2: FINDINGS

The Mayor and Council hereby find, determine, and declare:

A. That the City's outstanding 1975 Bond can be currently refunded, paid, and redeemed to the benefit of the City and its water ratepayers; that it is desirable and necessary for the benefit of the City and its ratepayers to refund the outstanding 1975 Bond of the City for the purpose of achieving certain beneficial public objectives; and that the net proceeds of the Bonds, together with other lawfully available moneys of the City, shall be used to currently refund, pay, and retire the outstanding 1975 Bond on January 1, 2000.

B. That it is the intent of the Mayor and Council to issue the Bonds for the purpose of providing funds in an amount sufficient, together with other lawfully available funds of the City to refund, pay, and retire the City's outstanding 1975 Bond.

Section 3: THE BONDS

The Bonds, designated "City of Peck Water Revenue Refunding Bonds, Series 1999," (the "Bonds"), in the aggregate principal amount of \$34,000, are hereby authorized to be issued, sold, and delivered pursuant to Title 50, Chapter 10, and Section 57-504, Idaho Code. The Bonds shall be dated December 15, 1999, shall be

issued only in fully registered form substantially in the form set forth in Exhibit "A" which is annexed hereto and by reference incorporated herein, and shall be numbered separately in a consecutive series, in the manner and with any additional designation as the Bond Registrar deems necessary for the purposes of identification. The Bonds shall be issued in denominations of \$100.00 or integral multiples thereof, shall bear interest from their date, payable on January 1 and July 1 of each year, commencing on January 1, 2001, at the rate of 5.80% per annum, and shall mature as follows:

<u>Maturity Date</u>	<u>Principal Amount</u>
January 1, 2001	\$ 5,200
January 1, 2002	6,600
January 1, 2003	7,000
January 1, 2004	7,400
January 1, 2005	7,800

The Treasurer is hereby appointed as the bond registrar, transfer agent, and paying agent for the Bonds (the "Bond Registrar"). The ownership of the Bonds shall be entered in the Bond Register maintained by the Bond Registrar, and the City may treat the person listed as owner(s) in the Bond Register as the owner(s) of the Bonds for all purposes. The Bonds may be transferred to exchanged only upon said Bond Register by surrender thereof to the Bond Registrar with written instructions satisfactory to the Bond Registrar, signed by the Registered Owner or its attorney in fact and guaranteed or witnessed in a manner satisfactory to the Bond Registrar, and a new fully registered Bond in a denomination representing the unpaid principal amount of the Bond shall be executed by the City, registered in the manner hereinbefore provided, and delivered to the new Registered Owner. No bond not so executed, registered, and delivered shall be entitled to any rights under this Ordinance. This paragraph is intended to provide the system of registration required by Chapter 9, Title 57, Idaho Code

Section 4: EXECUTION OF THE BONDS

Without unreasonable delay, the City shall cause the Bonds to be prepared, executed, and delivered, which Bonds shall be typewritten. The Bonds shall be signed by the Mayor, countersigned by the Treasurer, attested by the Clerk, and shall have the seal of the City impressed thereon.

Until the Bonds are prepared, the City may, if deemed necessary by the Mayor, utilize a temporary bond or bonds which shall be typewritten, and which shall be delivered to the purchaser of the Bonds in lieu of definitive bonds, subject to the same provisions, limitations, and conditions as the Bonds. The temporary bond or bonds shall be dated as of the date of the Bonds,

shall be in the aggregate principal amount of \$34,000, shall be numbered T-1 and consecutively thereafter, shall be substantially of the tenor of the Bonds, but with such omissions, insertions, and variations as may be appropriate to temporary bonds, shall be manually signed by the Mayor, countersigned by the Treasurer, attested by the Clerk, and shall have the seal of the City impressed thereon.

In case any of the officers who shall have signed or countersigned any of the Bonds shall cease to be such officer or officers of the City before the Bonds so signed or countersigned shall have been delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be delivered and issued and, upon such execution, delivery, and issue, shall be as binding upon the City as though those who signed and countersigned the same had continued to be such officers of the City. Any Bond may also be signed and countersigned on behalf of the City by such persons as at the actual date of execution of such Bonds shall be the proper officers of the City although at the original date of such Bond any such person shall not have been such officer of the City.

Section 5: PAYMENT OF THE BONDS

Both the principal of and interest on the Bonds shall be payable in lawful money of the United States of America to the registered owner or owners thereof, whose names and addresses shall appear on the registration records of the City (the "Bond Register"), maintained by the Bond Registrar.

Principal of each Bond shall be paid to the registered owner thereof, upon presentation and surrender of such Bond by the registered owner at the office of the Bond Registrar, on or after the date of maturity or prior redemption.

Payment of each installment of interest shall be made to the registered owner whose name appears on the Bond Register on the fifteenth day of the calendar month next preceding the interest payment date, and shall be paid by check or draft of the Bond Registrar mailed to such registered owner on the due date at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such registered owner to the Bond Registrar.

Section 6: REDEMPTION

A. Optional Redemption. Bonds maturing on or before January 1, 2001, shall not be subject to redemption prior to their stated dates of maturity without the prior written consent of the Registered Owners thereof. On any payment date on or after January 1, 2001, the Bonds maturing on and after January 1, 2002, shall be subject to redemption, at the option of the City and in such order

as the City may determine, at par plus accrued interest to the date of redemption, upon notice as set forth hereinafter.

B. Partial Redemption. Portions of any Bond may be redeemed. The portion of any Bond to be redeemed shall be in the principal amount of \$100 or any integral multiple of \$100, and in selecting portions of such Bonds for redemption the Bond Registrar will treat each such Bond as representing that number of Bonds of \$100 denomination which is obtained by dividing the principal amount of such Bond by \$100.

C. Notice of Redemption. Notice of redemption of any Bonds shall be given by mailing of notice by the Bond Registrar to the registered owner of any Bond being called for redemption not less than thirty days prior to the redemption date by registered or certified mail, postage prepaid, at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such registered owner to the Bond Registrar. The foregoing requirements shall be deemed to be complied with when notice is mailed as provided herein, regardless of whether or not it is actually received by the owner of such Bond. The notice shall specify the Bonds to be redeemed, the principal amount, the redemption price, and the date and place of redemption, and shall provide that the Bonds so called for redemption shall cease to accrue interest on the specified redemption date, provided funds for such redemption are on deposit at the place of payment at such time, and shall not be deemed to be outstanding as of such redemption date.

Section 7: DEFEASANCE OF THE BONDS

In the event that money and/or government obligations, maturing or having guaranteed redemption prices at the option of the owner at such time or times and bearing interest to be earned thereon in such amounts as are sufficient (together with any resulting cash balances) to redeem and retire part or all of the Bonds in accordance with their terms, are hereafter irrevocably set aside in a special account and pledged to effect such redemption and retirement then no further payments need be made into the Bond Fund for the payment of the principal of and interest on the Bonds so provided for, and the Bonds and interest accrued thereon shall then cease to be entitled to any lien, benefit, or security of this Ordinance, except the right to receive the funds so set aside and pledged, and the Bonds and interest accrued thereon shall no longer be deemed to be outstanding hereunder.

Section 8: THE REFUNDING PROCEDURE -- IRREVOCABLE PLEDGE

The City presently has outstanding its 1975 Bond, issued pursuant to Ordinance No. 63, adopted on August 12 1975, in the original principal amount of \$120,000, payable in annual installments of principal and interest of \$7,926. The principal

amount outstanding on the 1975 Bond is \$40,125.78, plus accrued interest. The City desires to pay, redeem, and retire its currently outstanding Series 1975 Bond. The City has given notice of intended redemption in accordance with Ordinance No. 63, which notice is hereby ratified and confirmed on all respects.

There is hereby created and established a special fund and account of the City, designated the "Refunding Account," which shall be maintained by the Treasurer, into which the proceeds of the Bonds, together with moneys currently on deposit in the Bond Fund and Reserve Fund for the 1975 Bond and other legally available funds of the City in the amount, if any, required fully to redeem and pay the principal of and accrued interest to the date of redemption on, the 1975 Bond, shall be deposited. Moneys in the Refunding Account shall be utilized exclusively for the purpose of paying the redemption price of, including accrued interest on, the 1975 Bond, and the Refunding Account is hereby irrevocably pledged to such purpose. Any moneys remaining in the Refunding Account after the 1975 Bond has been redeemed in full shall be transferred to the Revenue Fund.

Contingent solely upon the issuance, sale, and delivery of the Bonds, the 1975 Bond is hereby irrevocably called for redemption on January 1, 2000. Interest on the 1975 Bond so called for redemption shall cease on such date. The City hereby irrevocably pledges the net proceeds of the Bonds, together with moneys currently in the Revenue Fund or on deposit in the Bond Fund for payment of the principal of and interest on the 1975 Bond, and any earnings thereon, and any other legally available funds of the City, as shall be necessary to pay the principal of and accrued interest on the 1975 Bond to the date of redemption specified above. The Mayor and Council hereby find that no further payments need to be made into the bond fund established by Ordinance No. 63 for the payment of principal of and interest on the 1975 Bond, and the 1975 Bond and interest accrued thereon shall, upon compliance with this section, cease to be entitled to any lien, benefit, or security of Ordinance No. 63 except the right to receive the funds pledged hereinabove.

Section 9: CHARGES

The City has established, may from time to time revise, and shall maintain and collect water rates and charges for furnishing the services of the System to its customers, which rates and charges are, and shall continue to be, uniform as to all persons or properties which are of the same class, which rates and charges shall be collected from the users thereof.

Section 10: PLEDGE OF REVENUES

The Net Revenues of the System are hereby pledged for the payment of the Bonds, and shall be used and applied in the order of priority provided in Section 11 of this Ordinance.

The City shall establish, revise, maintain, and collect charges sufficient, with other revenues received, after taking into consideration anticipated delinquencies, to provide Net Revenues equal to not less than 1.2 times the sum of the combined aggregate amount of the principal of and interest on the Bonds, together with the principal of and interest on any Additional Bonds which shall become due the next succeeding fiscal year.

Section 11: THE REVENUE FUND

There is hereby created a special fund designated as the "City of Peck Water Revenue Fund" (the "Revenue Fund"), which shall be maintained by the Treasurer and into which the Revenue of the System shall be deposited forthwith upon its receipt.

A. Use of Revenues. The Revenue of the System shall be used for the payment of the following obligations in the following order of priority:

(1) First Charge and Lien: The costs of Operation and Maintenance Expenses.

(2) Second Charge and Lien: The principal of and interest on the Bonds and any Additional Bonds by payment into the Bond Fund, as provided in Section 12 of this Ordinance.

(3) Third Charge and Lien: To maintain the Reserve Account; and

(4) To administer surplus funds.

B. Surplus Funds. Funds remaining in the Revenue Fund after having been applied to designated funds for the purposes provided in this Section shall constitute surplus funds and may be used for the purposes set forth in Section 14 of this Ordinance.

Section 12: THE BOND FUND

There has heretofore been created by Ordinance No. 63 a special fund designated as the "Bond Redemption Fund of 1975," which is hereby redesignated the "City of Peck Water Revenue Bond Fund" (the "Bond Fund"), which shall be maintained by the Treasurer and into which shall be deposited, from Net Revenues, the following described revenues:

A. Each annual installment of principal and semi-annual installment of interest payable on the Bonds shall be payable into the Bond Fund from the Revenue Fund not less than ten (10) days prior to each payment date, and paid from the Bond Fund to the Registered Owner(s) on or before each payment date. The moneys herein allocated shall be used solely to pay currently maturing installments of principal of and interest on the Bonds or any Additional Bonds which may hereafter be issued.

B. If the City for any reason shall fail to make such deposit, then an amount equal to the deficiency shall be deposited into the Bond Fund from the Reserve Fund, described hereinafter.

Section 13: DEBT SERVICE RESERVE FUND

A. Deposits. There as heretofore been created, by Ordinance No. 63, adopted on August 12, 1975, a debt service reserve fund designated as the "Reserve Account" which is hereby redesignated the "Water Revenue Bond Reserve Fund" (the "Reserve Fund"), which shall be maintained by the Treasurer in an amount equal to \$3,400. No proceeds of the Bonds shall be deposited into the Reserve Fund. All moneys currently in the Reserve Fund in excess of \$3,400 shall be withdrawn from the Reserve Fund and deposited into the Refunding Account for the purposes provided in Section 8 of this Ordinance.

B. Deficiencies or Withdrawals. Whenever any moneys are withdrawn from the Reserve Fund to pay the principal of or interest on the Bonds, or if a deficiency exists in the Reserve Fund, the amount so withdrawn or the amount of such deficiency shall be restored by annual deposits from Net Revenues until there has been restored therein the gross amount provided in subdivision A of this Section.

C. Refunding. In the event refunding bonds are ever issued, the amount set aside into the Reserve Fund to secure the payment of the Bonds may be used to retire bonds or may be held in the Reserve Fund to secure payment of the refunding bonds issued, to refund the outstanding refunding bonds, or may be held in the Reserve Fund to secure the payment of any other issue or series of bonds payable out of the Bond Fund and issued on a parity with the Bonds.

D. Investments. All moneys in the Reserve Fund shall be deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government, or may be invested and reinvested in any legal investment permitted for City moneys maturing not later than the last maturity date of any outstanding bonds. So long as the amounts required by Section 13(A) above are on deposit in the Reserve Account, all investment earnings or moneys in the Reserve Account shall be deposited, as received, in the Bond Fund.

Section 14: SURPLUS FUNDS

Funds remaining in the Revenue Fund after having been applied for the purposes provided in Section 11A of this Ordinance shall constitute surplus funds and may be used for any of the following purposes:

A. To pay the costs of unusual or extraordinary maintenance of or repair to the System;

B. To pay the principal of and interest on any subordinate lien obligations which may have been issued to provide water facilities in or for the City;

C. To improve, extend, enlarge, or replace any water facilities;

D. To acquire or construct additional water facilities in or for the City;

E. To prepay the principal, interest, and any costs of the Bonds;

F. For any other lawful purpose.

Section 15: ADDITIONAL BONDS OR OTHER OBLIGATIONS

A. Limitations Upon Issuance of Parity Obligations. Nothing contained in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of Additional Bonds or other additional obligations payable from the Net Revenues on a parity with, but neither prior nor superior to, the lien of the Bonds herein authorized; provided, however, that before any such Additional Bonds or other additional parity obligations are authorized or actually issued:

(1) The City is not, and has not been, in default as to any payments required by the provisions of this Ordinance for a period of not less than twelve (12) months immediately preceding the issuance of such Additional Bonds or other additional parity obligations.

(2) The Net Revenues of the System for the past twelve (12) consecutive months immediately preceding the year of the issuance of such additional parity obligations shall have been sufficient to pay the Operation and Maintenance Expenses of the System for said past twelve (12) months, and, in addition, sufficient so that the Estimated Net revenues for the ensuing year equal an amount representing 120% of the annual principal and interest requirements of the outstanding Bonds and any other obligations of the City payable from the Net Revenues of the System, plus the average annual principal and interest

requirements of the Additional Bonds or other obligations proposed to be issued; provided, this limitation may be waived or modified by the written consent of the Registered Owner of 75% of the principal amount of the Bonds.

(3) A written certification by the City engineer or an independent engineer, if requested, or an independent certified public accountant, that the 120% Net Revenue and Estimated Net Revenue requirement of subsection (2) above has been satisfied, shall be obtained and filed with the City, which certification shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell, and deliver said Additional Bonds or other additional obligations on a parity with the Bonds authorized herein.

B. Authorized Parity Bonds. The City hereby expressly reserves the right to issue its water revenue bonds in the principal amount of up to \$325,000, as authorized by the electors of the City at a special bond election held on February 2, 1999, on a parity of lien with the Bonds, without compliance with the foregoing restrictions on the issuance of parity bonds.

C. Subordinate Lien Bonds. No provision of this Ordinance or of any instrument pertaining thereto shall be deemed to limit or restrict the power of the Council to issue bonds, notes or warrants, or to make pledges of the revenues which shall be subordinate as to the lien of the Bonds and which shall provide for compliance with the current provisions hereof prior to the application of any funds to said subordinate purpose.

D. Refunding. The restrictions with respect to the issuance of parity obligations shall not apply if such additional parity bonds proposed to be issued are for the sole purpose of refunding outstanding water revenue bonds.

Section 16: INVESTMENTS

Surplus funds in any of the Funds set forth in this Ordinance may be invested in securities as permitted by law.

Section 17: GENERAL COVENANTS

For the protection and security of the Bonds, it is covenanted and agreed to and with the Registered Owner of the Bonds from time to time, that the city will perform the following covenants:

A. Operate System. It will operate the System in an efficient and economical manner and prescribe, revise, and collect such charges in connection therewith so that the services, facilities, and properties of the System may be furnished at the

lowest possible cost consistent with sound economy and prudent management.

B. Good Repair. It will operate, maintain, preserve, and keep the System and every part hereof in good repair, working order, and condition.

C. Corporate Status. It will maintain its status as a municipal corporation of the State of Idaho and will take no steps to disincorporate or otherwise change its corporate status.

D. Preserve Security. It will preserve and protect the security of the Bonds and the rights of the Registered Owner thereof.

E. Collect Revenues. It will collect and hold in trust the revenues and other funds pledged to the payment of the Bonds and apply such revenue or other funds only as provide din this Ordinance.

F. Service Bonds. It will pay and cause to be paid punctually the principal of the Bonds and the interest thereon on the date or dates and at the place or places and in the manner mentioned in the Bonds, and in accordance with this Ordinance.

G. Pay Claims. It will pay and discharge any and all lawful claims for labor, materials, and supplies which, if unpaid, might by law become a lien or charge upon the Revenue of the system, or any part of said Revenue of the System, or any funds in the hands of the Treasurer, prior or superior to the lien of the bond or which might impair the security of the Bonds, to the end that the priority and security of the Bonds shall be fully preserved and protected.

H. Encumbrances. It will not mortgage or otherwise encumber, sell, lease, or dispose of the System or any part thereof, nor enter into any lease or agreement which would impair or impede the operation of the System or any part thereof necessary to secure adequate revenues for the payment of the principal of and interest on the Bonds, nor which would otherwise impair or impede the rights of the Registered Owner of the Bonds with respect to such revenues or the operation of the System without provisions for the retirement of the Bonds then outstanding from the proceeds thereof.

I. Insurance. It will procure and keep in force insurance upon all buildings and structures of the System and the machinery and equipment therein, which are usually insured by entities operating like property, in good and responsible insurance companies. The amount of the insurance shall be such as may be required to adequately protect it and the Registered Owner of the Bonds from loss due to any casualty, and in the event of any such

loss, the proceeds shall be used to repair or restore the System or for the payment of the Bonds issued under this Ordinance.

J. Fidelity Bonds. It will procure suitable fidelity bonds covering all of its officers and other employees charged with the operation of the System and the collection and disbursement of revenues therefrom.

K. Engineers. It will employ consulting engineers of acknowledged reputation, skill, and experience in the improvement and operation of the System for any unusual or extraordinary items of maintenance, repair, or betterments as shall be required from time to time, all reports, estimates, and recommendations of such consulting engineers to be filed with the Clerk and furnished to the Registered Owner of the Bonds issued hereunder, upon request.

L. Accounts. It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish complete operating and income statements to the Registered Owner upon request.

M. Delinquencies. It will not furnish sewer service to any customer whatsoever free of charge, and it shall not later than sixty (60) days after the end of each calendar year, take such legal action as may be reasonable to enforce collection of all collectible delinquent accounts.

Section 18: SPECIAL COVENANTS

The City further covenants and agrees:

A. In accordance with Section 149(a) of the Internal Revenue Code of 1986, as amended (the "Code"), the Bonds shall be issued and remain in fully registered form in order that interest thereon be excluded from gross income of the owner or owners for federal income tax purposes. The City covenants and agrees that it will take no action to permit the Bonds to be issued in or converted to bearer or coupon form.

B. The Bonds are hereby designated as "qualified tax-exempt obligations" within the meaning and for the purposes of Section 265(b)(3) of the Code, and the City does not reasonably anticipate that it will designate more than \$10,000,000, including the Bonds, as qualified tax-exempt obligations during the calendar year 1999.

C. None of the proceeds of the Bonds will be used directly or indirectly (i) to make or finance loans to persons or (ii) in any trade or business carried on by any person (other than use as a member of the general public). For purposes of the preceding sentence, the term "person" does not include a government unit other than the United States or any agency or instrumentality

thereof, and the term "trade or business" means any activity carried on by a person other than a natural person. The City further covenants and agrees to take no action which would cause the Bonds to be "private activity bonds," nor will it omit to take any action necessary to prevent the Bonds from becoming "private activity bonds," within the meaning of Section 141 of the Code.

D. The City has general taxing powers. The Bonds are not "private activity bonds" within the meaning of Section 141 of the Code. 95% or more of the net proceeds of the Bonds are to be used for the local governmental activities of the City. The City has no subordinate entities. The City has not issued, and does not reasonably anticipate that it will issue, tax-exempt obligations in the calendar year 1999 in a face amount which exceeds \$5,000,000. Accordingly, under Section 148(f)(4)(D) of the Code, the City is not required to pay rebates to the United States under Section 148(f) of the Code.

E. The Mayor and Clerk-Treasurer, or any one or more of such officials, as may be appropriate, are each hereby authorized and directed to execute, on behalf of the City, such certificate or certificates as shall be necessary to establish that the Bonds are not "arbitrage bonds" within the meaning of Section 148 of the Code and the Treasury Regulations promulgated thereunder, and to establish that interest on the Bonds is not and will not become includable in the gross income of the owner of the Bonds under the Code and applicable regulations. The City covenants and agrees that no use will be made of the proceeds of the Bonds, or any funds of the City which may, pursuant to Section 148 of the Code and applicable regulations, be deemed to be proceeds of the Bonds, which would cause the Bonds to be "arbitrage bonds" within the meaning of section 148 of the Code. The City further covenants to comply throughout the term of the Bonds with the requirements of Section 148 of the Code and the regulations promulgated thereunder in order to prevent the Bonds from becoming "arbitrage bonds."

F. None of the proceeds of the Bonds will be used to reimburse the City for capital expenditures made prior to the date of delivery of the Bonds unless the City, not later than 60 days after the payment of such expenditure, shall have adopted an official intent resolution as provided by Section 1.150-2 of the Treasury Regulations.

Section 19: AMENDMENTS

A. The City from time to time and at any time may adopt an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes:

- (1) To add to the covenants and agreements of the City in this Ordinance, other covenants and agreements thereafter

to be observed, which shall not adversely affect the interest of the Registered Owner of the Bonds, or to surrender any right or power herein reserved.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provisions contained in this Ordinance, or any ordinance authorizing future bonds in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the Registered Owner of the Bonds.

Any such supplemental ordinance may be adopted without the consent of the Registered Owner of the Bonds at any time outstanding, notwithstanding any of the provisions of subsection B of this Section.

B. With the consent of the Registered Owner of not less than 75% in aggregate principal amount of the Bonds at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturity of the Bonds, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, if applicable, without the consent of the Registered Owner of the Bonds so affected; or

(2) Reduce the aforesaid percentage of the Registered Owner required to approve any such supplemental ordinance, without the consent of the Registered Owner of the Bonds then outstanding.

It shall not be necessary for the consent of the Registered Owner under this subsection B to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

C. Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties, and obligations of the City under this Ordinance and the Registered Owner of the Bonds outstanding hereunder shall thereafter be determined, exercised, and enforced thereunder, subject in all respects to such modification and amendments, and all terms and conditions of any such supplemental ordinance shall

be deemed to be part of the terms and conditions of this Ordinance for any and all purposes.

D. Any bonds executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform, in the opinion of the Council, to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the Registered Owner of any affected Bonds then outstanding, upon surrender for cancellation of such Bonds.

Section 20: VALIDITY OF ISSUANCE

The Bonds are issued pursuant to the Idaho Revenue Bonds Act, being Idaho Code Sections 50-1027 through 50-1042. This recital is conclusive evidence of the validity of the Bonds and the regularity of their issuance.

Section 21: REGISTERED OWNER'S REMEDIES -- RECEIVER

By action or suit in equity, the Registered Owner of subsequent owners of the Bonds may, in the event of a material violation of any of the foregoing covenants, cause the appointment of a receiver, which receiver may enter and take possession of the System and any Net Revenues for the payment of the Bonds, prescribe fees to be derived from the System, and collect, receive, and apply all Net Revenues or other moneys pledged for the payment of the Bonds in the same manner as the City might do in accordance with the obligations of the City.

Section 22: SALE OF BONDS

The sale of the Bonds to Robert E. Hildeman, of Boise, Idaho, in accordance with the bond purchase agreement presented to the Council at this meeting, is hereby authorized and approved.

Section 23: ORDINANCE A CONTRACT

The provisions of this Ordinance shall constitute a contract between the City and the Registered Owner so long as the Bonds hereby authorized remain unpaid.

Section 24: SEVERABILITY

If any one or more of the covenants or agreements provided in this Ordinance to be performed on the part of the City shall be declared by any court or competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the

remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds.

Section 25: REPEALER

All prior ordinances inconsistent herewith are hereby repealed and shall, to the extent of such inconsistency, have no further force or effect.

Section 26: AUTHORIZATION

The Mayor, City Clerk, and City Treasurer, or any one of such officers, as may be appropriate to the circumstances, are hereby authorized to execute, on behalf of the City, all such additional documents as may be necessary to effect the sale and delivery of the Bonds.

Section 27: PUBLICATION AND EFFECTIVE DATE

This Ordinance, or a summary thereof in compliance with Section 50-901A, Idaho Code, substantially in the form which is annexed hereto as Exhibit "B," shall be published once in the official newspaper of the City, and shall take effect immediately upon passage and approval.

DATED this 8th day of December, 1998.

CITY OF PECK
Nez Perce County, Idaho

Randall L. Oh
Mayor

ATTEST:

Shawn D. Miller
City Clerk

(S E A L)

UNITED STATES OF AMERICA
STATE OF IDAHO
COUNTY OF NEZ PERCE

CITY OF PECK
WATER REVENUE REFUNDING BOND, SERIES 1999

Registered
Number
R- _____

Registered
\$ _____

INTEREST RATE:
5.80%

MATURITY DATE:

DATED DATE:
December 15, 1999

Registered Owner:

Principal Amount:

THE CITY OF PECK, Nez Perce County, Idaho (the "City"), for value received, promises to pay from the "City of Peck Water Revenue Bond Fund" (the "Bond Fund") established by Ordinance No. 138 of the City, adopted on December 8, 1999 (the "Bond Ordinance"), to the registered owner identified above, or registered assigns, on the maturity date specified above, the principal sum indicated above, and to pay interest thereon from the aforesaid Bond Fund from December 15, 1999, or the most recent date to which interest has been paid or duly provided for, at the rate per annum specified above, payable on January 1, 2001, and semiannually on each July 1 and January 1 thereafter, until the date of maturity or prior redemption of this Bond.

Both principal of and interest on this Bond are payable in lawful money of the United States of America to the registered owner hereof whose name and address shall appear on the registration books (the "Bond Register") of the City maintained by the City Treasurer (the "Bond Registrar"). Interest shall be paid to the registered owner whose name appears on the Bond Register on the fifteenth day of the calendar month next preceding the interest payment date, at the address appearing on the Bond Register, and shall be paid by check or draft of the Bond Registrar mailed to such registered owner on the due date at the address appearing on the Bond Register, or at such other address as may be furnished in writing by such registered owner to the Bond Registrar. Principal shall be paid to the registered owner upon presentation and surrender of this Bond at the office of the Bond Registrar, on or after the date of maturity or prior redemption.

This Bond and the Bonds of this issue are issued for the purpose of providing funds to finance the payment, redemption, and

retirement of certain outstanding water revenue bonds of the City, as more fully described in the Bond Ordinance. This Bond is issued pursuant to and in full compliance with the Constitution and statutes of the State of Idaho, particularly Title 50, Chapter 10, and Title 57, Chapters 5 and 9, Idaho Code, and proceedings duly adopted and authorized by the Mayor and Council of the City acting for and on behalf of the City, more particularly the Bond Ordinance.

Bonds maturing on or before January 1, 2001, shall not be subject to redemption prior to their stated dates of maturity without the prior written consent of the Registered Owners thereof. On any payment date on or after January 1, 2001, the Bonds maturing on and after January 1, 2002, shall be subject to redemption, at the option of the City and in such order as the City may determine, at par plus accrued interest to the date of redemption, upon notice as set forth hereinafter.

Portions of any Bond may be redeemed. The portion of any Bond to be redeemed shall be in the principal amount of \$100 or any integral multiple of \$100, and in selecting portions of such Bonds for redemption the Bond Registrar will treat each such Bond as representing that number of Bonds of \$100 denomination which is obtained by dividing the principal amount of such Bond by \$100.

Notice of any intended redemption shall be given by mailing of notice to the registered owner of any Bond being called for redemption not less than thirty days prior to the redemption date by first class mail, postage prepaid, at the address appearing on the Bond Register. The requirements of the Bond resolution shall be deemed to be complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owner of such Bond. Interest on all such Bonds so called for redemption shall cease to accrue on the specified redemption date unless such Bond or Bonds so called for redemption are not redeemed upon presentation made pursuant to such call.

This Bond creates a lien and charge upon the Net Revenue of the City's water System (as said capitalized terms are defined in the Bond Ordinance) superior to all other charges of any kind and nature, except the charges necessary to pay the principal of and interest on any existing or future parity bonds. This Bond is a limited obligation of the City and is payable as to principal and interest solely from the Bond Fund. For a more particular description of said Bond Fund, the revenues to be deposited therein, and the nature and extent of the security afforded thereby, reference is made to the provisions of the Bond Ordinance pursuant to which this Bond is issued, and such Bond Fund will be maintained.

This Bond does not now and shall never constitute an indebtedness of the City within the meaning of any State

Constitutional provision or statutory limitation, nor a charge against the general credit or taxing powers of the City.

The City has covenanted with the registered owner of this Bond and the Bonds of this issue to keep and perform all covenants and agreements contained in the Bond Ordinance, and the City will establish, maintain, collect, and account for rates and charges for service furnished by or through the System, including all extensions and improvements thereto hereafter constructed or acquired by the City, sufficient to pay the principal of and interest on this Bond and the Bonds of this issue as they fall due, provided such rates must be reasonable rates for the type, kind, and character of the services rendered.

The City and the Bond Registrar may deem and treat the registered owner hereof as the absolute owner hereof for the purpose of receiving payments of principal hereof and interest due hereon and for all other purposes.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all conditions, acts, and things essential to the validity of this Bond do exist, have happened, and have been done, and that every requirement of law affecting the issue hereof has been duly complied with; that the Net Revenue to be derived from the operation of the System, including any future improvements, additions, or extensions thereto, have been and are hereby pledged and will be set aside into the Bond Fund in amounts sufficient for the payment of principal of and interest on this Bond.

IN WITNESS WHEREOF, the City of Peck, Nez Perce County, Idaho, under its corporate seal, has caused this Bond to be signed in its corporate name by its Mayor, countersigned by the Treasurer thereof, and attested by the City Clerk, this 15th day of December, 1999.

CITY OF PECK
Nez Perce County, Idaho

Randall L. Oh
Mayor

Paula K. Jones
City Treasurer

ATTEST:

Pharon E. Miller
City Clerk

[SEAL]

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto:

Name of Transferee: _____

Address: _____

Tax Identification No. _____

the within Bond and hereby irrevocably constitutes and appoints

of _____,

to transfer said Bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: _____

Registered Owner

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within Bond in every particular, without alteration or enlargement or any change whatever.

SIGNATURE GUARANTEED:

Bank, Trust Company or Member
Firm of the New York Stock
Exchange _____
Authorized Officer

SUMMARY OF
ORDINANCE NO. 138

AN ORDINANCE OF THE CITY OF PECK, NEZ PERCE COUNTY, IDAHO, AUTHORIZING THE ISSUANCE, SALE, AND DELIVERY OF WATER REVENUE REFUNDING BONDS, SERIES 1999, IN THE PRINCIPAL AMOUNT OF \$34,000, FOR THE PURPOSE OF PAYING, CURRENTLY REFUNDING, AND RETIRING THE CITY'S OUTSTANDING WATER REVENUE BOND OF 1975; DESCRIBING THE REFUNDING BONDS; PROVIDING TERMS AND COVENANTS RELATING TO THE REFUNDING BONDS; PROVIDING FOR THE PAYMENT AND REDEMPTION OF THE CITY'S OUTSTANDING BOND; PROVIDING FOR THE SALE AND DELIVERY OF THE REFUNDING BONDS; PROVIDING FOR RELATED MATTERS, AND PROVIDING AN EFFECTIVE DATE

A summary of the principal provisions of Ordinance No. 138 of the City of Peck, Nez Perce County, Idaho, adopted on December 8, 1999, is as follows:

Section 1: Defines the terms and phrases used in said Ordinance.

Section 2: Makes findings that a benefit to the City and its water ratepayers can be achieved by currently refunding the City's outstanding Water Revenue Bond of 1975 (the "1975 Bond").

Section 3: Describes the City of Peck Water Revenue Refunding Bonds, Series 1999 (the "Bonds"), provides for the terms of payment and the maturity of the Bonds, and appoints the City Treasurer as Bond Registrar.

Section 4: Provides for the manner and method of execution of the Bonds.

Section 5: Sets forth the place and manner of payment of the Bonds.

Section 6: Provides for optional redemption of the Bonds.

Section 7: Provides for defeasance of the Bonds.

Section 8: Establishes the "Refunding Account" and describes the refunding procedure for the refunding of the City's outstanding 1975 Bond.

Section 9: Provides for the establishment of water rates and charges.

Section 10: Pledges the Net Revenues of the water System for the payment of the Bonds.

Section 11: Establishes the "City of Peck Water Revenue Fund."

Section 12: Establishes the "City of Peck Water Revenue Bond Fund."

Section 13: Establishes the "Debt Service Reserve Fund."

Section 14: Provides for the designation and disposition of surplus funds.

Section 15: Establishes the conditions of and limitations on the issuance of additional bonds or parity obligations.

Section 16: Provides for the investment of surplus funds.

Section 17: Provides certain general covenants of the City with the Registered Owners of the Bonds.

Section 18: Provides certain special tax covenants of the City.

Section 19: Provides that the City may adopt supplemental ordinances.

Section 20: Recites that the Bonds are issued pursuant to the Idaho Revenue Bond Act.

Section 21: Provides for remedies in case of default.

Section 22: Authorizes the sale of the Bonds.

Section 23: States that the Ordinance constitutes a contract with the Registered Owner of the Bonds.

Section 24: Provides for severability.

Section 25: Repeals prior inconsistent ordinances, to the extent of any inconsistency.

Section 26: Authorizes the Mayor and Clerk-Treasurer to execute any additional documents necessary to issue, sell, and deliver the Bonds.

Section 27: Provides for the publication of the Ordinance or a summary thereof and the effective date of the Ordinance.

The full text of Ordinance No. 138 is available at City Hall and will be provided to any citizen upon personal request during normal office hours.

DATED this 8th day of December, 1999.

CITY OF PECK
Nez Perce County, Idaho



Mayor

ATTEST:



City Clerk