For Posting

ORDINANCE NO. 63

"AN ORDINANCE OF THE CITY OF PECK, IDAHO, AUTHORIZING THE ISSUANCE AND SALE OF WATER REVENUE BONDS OF $120,000.00 FOR THE PURPOSE STATED IN ORDINANCE NO. 61 AND PAYABLE OUT OF THE REVENUES OF THE WATER SYSTEM; PROVIDING FOR THE FORM OF BOND AND INTEREST COUPONS TO BE ATTACHED THERETO; CREATING CERTAIN SPECIAL FUNDS THEREFORE IN THE OFFICE OF THE CITY TREASURER; SETTING FORTH CERTAIN COVENANTS IN REGARD TO SAID BONDS; PERMITTING THE ISSUANCE OF REVENUE BONDS ON A PARITY WITH THESE BONDS; PROVIDING FOR THE SUBSEQUENT DATING OF THE BONDS AND FUNDS; AND PROVIDING FOR THE POSTING AND EFFECTIVE DATE OF THIS ORDINANCE."

WHEREAS, at a Special Election held in Peck, Idaho, on October 21, 1974, Water Revenue Bonds in the amount of $120,000.00 were authorized for the purpose of providing funds to pay part of the cost of the construction of additions and betterments to the water system pursuant to the provisions in Ordinance No. 61.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PECK, IDAHO:

Section 1: PURPOSE OF ISSUE

For the purpose of paying part of the costs of additions and betterments to the water system of the City of Peck, Idaho, will issue and sell its Water Revenue Bond or Bonds of 1975.

Section 2: REDEMPTION

The City reserves the right to redeem Bonds maturing on or after ten (10) years from date in the inverse numerical order, highest numbers first, and on any interest payment date thereafter.

Notice of such redemption shall be given by one (1) publication thereof in a newspaper of general circulation within said City, at least thirty (30) days prior to the date of intended redemption, and by mailing a like notice at the same time to the purchaser, or purchasers, of said bonds.

Section 3: PAYMENT OF BONDS

The foregoing Bonds shall be payable, both principal and interest, at the office of the Treasurer of Peck, Idaho, or at Boise, Idaho, if said bonds are sold to the State of Idaho, or at the fiscal agency of the State of Idaho in the City and State of New York, or at some other bank or trust company in the State of Idaho, as may be designated by the purchaser and City at the time of sale.

Said Bonds shall be signed in the corporate name of the City by the Mayor, countersigned by the Treasurer, and attested by the Clerk under the corporate seal of said City by their signatures, and the interest coupons shall be signed by the Treasurer of said City, by his facsimile signature, all as permitted by statute, and consistent with the provisions herein elsewhere made, said bonds and interest thereon shall be payable only out of the Bond Redemption Fund referred to in Section 7 of this Ordinance. Said bond issue shall run for a period of forty (40) years.

Said bonds and interest coupons thus issued against such Bond Redemption Fund herein named shall be a valid claim of the holder thereof only as against such Fund and the moneys required hereby to be paid therein, and shall not constitute an indebtedness of the City of Peck within the meaning of the Constitution or Laws of the State of Idaho; and each such bond and interest coupon shall state on its face that it is payable from said "BOND REDEMPTION FUND OF 1975" as hereinafter created.

The Council does hereby state and certify that in setting aside and providing for the payment into said Fund of the amounts necessary for the payment of the principal and interest of said bonds, this Council has taken into consideration and has had due regard to, the cost of operation and maintenance of the water system of said City, and this Council will set aside into said Fund moneys sufficient and necessary to retire said bonds, both principal and interest, after payment for salaries and wages and operation and maintenance costs of said water system.

Section 4: <u>FORM OF BOND</u>

That the form of said bonds and interest coupons to be attached thereto and the Certificate of the Clerk and Treasurer of said City, which shall be printed on the back of each bond, shall be substantially in the following form, viz:

(FORM OF BOND)

NO. ____________ $1,000.00

UNITED STATES OF AMERICA

STATE OF IDAHO

CITY OF PECK

WATER REVENUE BOND SERIES OF 1975

KNOW ALL MEN BY THESE PRESENTS: That the City of Peck, Idaho, for value received, hereby promises to pay to bearer on the first day of ________________, 19____, the principal sum of

O N E   T H O U S A N D   D O L L A R S

($1,000.00) with interest thereon from date hereof at the rate of __________ per cent (______%) per annum, payable semi-annually on _____________ first and ______________ first of each year, upon the presentation and surrender of this bond at its maturity, and upon the presentation and surrender of the annexed interest coupons as they severally become payable, both principal and interest on this bond being payable in lawful money of the United States of America at the Office of the Treasurer of the City of Peck, in Peck, Idaho.

This bond is one of an issue of the Water Revenue Bonds, Series 1975, of $120,000.00 of said City, of like date, tenor and effect except as to the dates of maturity and varying rates of interest of the denomination of $1,000.00, numbered from 1 to 120, both inclusive, maturing in numerical order, lowest numbers first on ____________ first over the years 1977 to 2005, both and all years therein inclusive, as shown by the Maturity Schedule printed on the back hereof; provided, however, that said City reserves the right to redeem Bond Nos. ______ to _______, both inclusive, or any of them, in the inverse order of their numbering, highest numbers first, on any interest payment date on or after ______________, 1985, at the times and prices shown by the Redemption Schedule printed on the back hereof, notice of such redemption to be given by one publication thereof in a newspaper of general circulation within the City, at least thirty (30) days prior to the date of intended redemption, and by mailing a like notice at the same time to the purchaser or purchasers of said bonds, and upon the date fixed for redemption interest upon the bonds thus called for redemption shall cease to accrue.

The foregoing bonds have been issued for the purpose of providing funds to pay part of the costs of additions and betterments to the water system of Peck, Idaho, as authorized by Ordinance No. 61, passed and approved September 30, 1974, and as authorized at a special election held within said City on October 21, 1974. This bond is issued under the authority of and in strict compliance with the Constitution and Laws of the State of Idaho and with Chapter 47 of the Session Laws of Idaho of 1951, and the Ordinances and Resolutions of this City.

The City of Peck further covenants and agrees to keep and perform all of the covenants of this bond and of Ordinance Nos. 61, passed and approved on September 30, 1974, and Ordinance No. 63, passed and approved on August 12, 1975.

This bond and the interest thereon are payable solely from the Special Fund named and known as the "BOND REDEMPTION FUND OF 1975", created by Ordinance No. 63, and said City does hereby pledge and bind itself to pay into said Bond Redemption Fund of 1975, created by Ordinance No. 63, and said City does hereby pledge and bind itself to pay into said Bond Redemption Fund of 1975 and the Reserve Fund both created by Ordinance No. 63, the various amounts required by said Ordinances to be paid into and maintained in said funds, all within the times provided by said Ordinances.

Said bonds so pledged are hereby declared to be a prior lien and charge upon the gross revenues of the water system superior to all other charges of any kind or nature, except operation and maintenance costs, and the charges necessary to pay the principal and interest on any parity bonds hereinafter authorized.

The City has further bound itself to maintain said water system in good condition and repair, to operate the same in an efficient manner and to establish and maintain and collect rates and charges that will provide revenue equal to 1.4 times the amount required each calendar year to pay the principal and interest due on all outstanding Water Revenue Bonds and on any revenue bonds which may later be issued on a parity with these bonds, after operation and maintenance costs of said water system have been paid, but before depreciation. Any future charge or special fund indebtedness which may be created by said City, to be payable out of the revenues of said water system, except for parity bonds, shall constitute a charge and lien subject and junior to the charge and lien thereon created by said Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and Laws of said State and by the Ordinances and Resolutions of said City to happen, exist and to be done and performed precedent to and in the issuance of this bond, have duly happened, have existed and do exist, and have been done and performed and that this bond and the bond issue of which it is one are not affected by any constitutional or other municipal debt limitation.

IN WITNESS WHEREOF, the City of Peck, Idaho, has caused this bond to be signed in its corporate name, by its Mayor, countersigned by its Treasurer and attested by its Clerk under the seal of said City, by their facsimile signatures, and the coupons attached hereto to be signed by the facsimile signature of the Treasurer this _____ day of ___________, 197___.

CITY OF PECK, IDAHO

By: ______________________________
Mayor

Countersigned:

____
Treasurer

ATTEST:

____
Clerk

(FORM OF INTEREST COUPON)

NO.______________ $______________

On the first day of __________, 19___, the City of Peck, Idaho, will pay to bearer at the Office of the Treasurer of the City of Peck, Idaho, ____________________ Dollars ($__________) in lawful money of the United States of America solely from the "Bond Redemption Fund of 1975", created by Ordinance No._____, passed and approved December ____, 1974, and solely from the earnings and revenues of said water system, being the semi-annual interest then payable on its City of Peck Water Revenue Bond, Series of 1975, dated ______________ 1, 1975.

Bond No. ______________

____
Treasurer of the City of Peck, Idaho

The following additional language will be printed upon the coupons of the bonds subject to redemption:

> In the event of prior redemption of the annexed bond all unearned interest evidenced hereby as of the date of such prior redemption shall cease to be payable.

(CERTIFICATE OF CITY CLERK AND TREASURER)
(TO BE PRINTED UPON THE BACK OF EACH BOND)

We, the undersigned Clerk and Treasurer, respectively, of the City of Peck, Idaho, do hereby certify that the within bond has been duly registered in permanent record books kept in our respective offices for the purpose of such registration, in full compliance with the provisions of Chapter 262 of the Session Laws of Idaho of 1927, and as amended, and Chapter 47 of the Session Laws of Idaho of 1951, and all other laws applicable thereto, such registration showing the number, date, amount of bond, rate of interest thereon, date of maturity, place of payment and the number and denominations of the attached coupons, and the undersigned Treasurer does hereby certify that before the delivery of this bond he received the proper consideration therefore.

Clerk of the City of Peck, Idaho

Treasurer of the City of Peck, Idaho

Note: In the event the United States Government or one of its agencies is the purchaser of this bond issue, then and in that event, the format for this bond issue, including the pay schedule, shall be substantially in the form recommended by the government or one of its agencies.

Section 5: WATER SYSTEM FUND

There is herein created in the office of the Treasurer, in the City of Peck, Idaho, a "Water System Fund", the gross revenues and other income derived by the City from this ownership and operation of the water system shall be paid into said Fund, the monies shall be paid out of said fund in accordance with the following priorities.

Section 6: PAYMENT OF CURRENT EXPENSES

First, current expenses shall be payable as a first charge from the Water System Fund as the same becomes due and payable. Current expenses shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, insurance charges and all other expenses incident to the operation of the water system, but shall not include depreciation.

Money in the Water System Fund over and above the requirements set forth in this Ordinance may be used for making additions, extensions and improvements to the Water System.

Section 7: BOND REDEMPTION FUND OF 1975

Second, there shall be paid into the "BOND REDEMPTION FUND OF 1975", which is herein created, moneys for payment of the annual installment of the 1975 bond or bonds and the interest thereon, a sum equal to at least 1/12th (or such larger amount as is necessary) of the annual principal installment and interest thereon becoming due on the next succeeding payment date.

If the City, for any reason, shall fail to make such monthly deposits, then an amount equal to the deficiency shall be set apart and deposited in the said Bond Redemption Fund out of the gross revenues in the ensuing month or months, which amount shall be in addition to the regular monthly deposit required during such succeeding month or months.

It is hereby made the mandatory official duty of the Treasurer of the City of Peck, Idaho, for the time being, to maintain said Bond Redemption Fund of 1975, continuously in his office, and to pay, and to cause to be paid, into said Bond Redemption Fund of 1975, out of the said revenues of said water system, the foregoing bonds, and the semiannual interest thereon, and to apply said moneys for the payment and retirement of the said Water Revenue Bonds according to their terms.

The foregoing Bond Redemption Fund of 1975 and the funds paid therein, as required hereinbefore, shall be used solely for the purpose of the payment of the principal of said bonds authorized hereby as they mature and become payable, and for the payment of the interest thereafter, as the same accrues and becomes payable, as provided in the interest coupons which shall be attached to said bonds, without preference or priority of the interest upon one bond over another bond maturing in any year, by reason of its numbering, priority of issuance or otherwise.

Section 8: <u>RESERVE ACCOUNT</u>

Third, there shall be paid into the Reserve Account the sum of $2,050.00 each year until there is accumulated in that fund the sum of $10,250.00, after which no further deposits need be made into said account except to replace withdrawals.

In the event the Farmers Home Administration is the purchaser of this bond issue, then and in that event there shall be paid into the Reserve Account the sum of $1,560.00 each year until there is accumulated in that fund the sum of $7,800.00; afterwards no further deposits will need to be made except to replace withdrawals.

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 an unforeseen catastrophe or when necessary for the purpose of making payments of principal and interest on the bond or bonds hereby authorized in the event the amount in the Bond Redemption Fund is insufficient to meet such payments. Whenever disbursements shall have been made from said account, said yearly payments shall then be resumed until there is again accumulated the maximum amount required. The moneys in said Reserve Account may be applied on principal and interest payments upon the last maturities.

All monies in the Reserve Account may be kept in cash, invested in United States Government obligations, or any other obligations permitted by law.

Interest earned upon amounts held in the Reserve Account shall be transferred when received to the credit of the Bond Redemption Fund.

Section 9: COVERAGE

The City covenants and agrees to maintain said Water System in a good condition and repair; to operate the same in an efficient manner; to establish and maintain and collect rates and charges that will provide revenue equal to 1.4 times the amount required each calendar year for the principal and interest due on all outstanding Water Revenue Bonds and on any Revenue Bonds which may later be issued on a parity with these bonds, after operation and maintenance costs of such Water System have been paid, but before depreciation.

This coverage provision applies in the event that the bonds are sold to a purchaser other than the United States Government or one of its agencies. In the event this bond issue is sold to the United States Government or one of its agencies, then and in that event there will be provided revenue equal to 1.1 times the amount required each calendar year for the principal and interest due on the balance of this revenue bond issue and on any revenue bond or bonds which may later be issued on a parity with this bond issue after operation and maintenance costs of said Water System have been paid, but before depreciation.

Section 10: CONSTRUCTION FUND

For the purpose of the administration of moneys from time to time to be received and expended in the construction of additions and betterments to the water system, as authorized by Ordinance No. 61, there is created a "Water Department Construction Fund" to finance the construction and installation of the improvements, as provided by Ordinance No. 61. There shall be deposited therein the proceeds from the sale of the revenue bonds issued hereunder. There shall be charged to such Construction Fund all such items which by sound accounting practices constitute proper costs of the construction and installation of the improvements to the Water System as allowed and ordered paid by this City. Moneys in the Construction Fund upon which there is no immediate requirement also may be invested as permitted by law. Any balances remaining in the Construction Fund upon completion of construction shall be transferred to the Bond Redemption Fund of 1975.

Section 11: ISSUANCE OF PARITY ADDITION BONDS

Additional Water Revenue Bonds on a parity basis may be issued for any legal purpose, upon the following terms and conditions:

(1) At the time of the issuance of such additional Water Revenue Bonds there is no deficiency in any of the funds established by this Ordinance with respect to any outstanding Revenue Bond Issue, or issues, which bond obligations constitute a lien upon the funds arising from revenues derived from the operation of the water system as presently constituted, or as expended and improved, or revenue derived from any part thereof.

(2) The City shall provide in such Ordinance authorizing the issuance of additional bonds on a parity of lien with these bonds, that there will be established for each such issue a Bond Redemption Fund, which shall include a Reserve Account, or the existing funds may be increased to reflect the increased debt service of any new bond issue or issues. There shall be paid into said Reserve Account within a period to be provided by Ordinance authorizing such parity issue, but in no event later than five years from date of issuance of said bonds, an amount equal to one years average debt service on the additional bond issue or issues. The City shall thereafter maintain such amount in said Reserve Account, (making payments therein in the event of transfers therefrom to the Bond Fund) during such time as such bond issue shall remain outstanding, except that the moneys in said Reserve Account may be used to pay the principal and interest upon the last maturing bonds.

(3) Before such parity bonds are issued, a certificate must be prepared by a qualified independent consulting engineer to the effect that the net income of the Water System, as defined below, for any twelve consecutive months out of the immediately preceding thirty-six months, along with any additional income to be derived from the improvements to be constructed from the proceeds of the parity bonds and after

given effect to any rate increases, will at least be equal to 1.1 times average annual sinking fund or average annual principal and interest requirements on the outstanding bonds and the parity bonds proposed to be issued. Net income is defined as gross water revenues, and any other income less operating expenses, but before depreciation.

(4) The City shall have the power, and reserves the right to issue refunding bonds having a parity of lien as in this Ordinance provided:

(a) Such refunding bonds may be exchanged for, or their proceeds used to retire, prior to maturity, an equal amount in principal value of outstanding bonds, or any part thereof, issued for acquisition, construction, betterment, or extension of the Water System, or any part thereof, or any or all other water revenue bonds which may hereafter be issued, or any part of said bond issues; and

(b) Such issuance of refunding bonds does not require a larger debt service payment in any year thereafter over the life of the bonds to be refunded; and,

(c) The City will, in the Ordinance providing for the issuance of such refunding bonds and the creation of a Bond Redemption Fund, further create a Reserve Account or add to the current reserve account in the manner provided in Section 8 of this Ordinance.

(5) Nothing herein contained shall prevent the City from issuing Water Revenue Bonds or Warrants, which are a charge upon the Bond Redemption Fund junior or inferior to the payments to be made into said Fund or any other fund created on behalf of any parity bonds issued subsequent to this issue.

Section 12: <u>ACCOUNTING SYSTEM</u>

A complete set of books of account of said Water System shall be kept in the Office of the Treasurer of said City and shall be open to inspection by the public at any time during office hours. The books of account shall be audited every two years by a public accountant appointed by the City of Peck, Idaho. Said audit shall be made within sixty (60) days following the close of each period. Each such audit, in addition to whatever matters may be thought proper by the accountant may be included therein, shall include the following:

1. A statement in detail of the income and expenditures of the Water System for each fiscal year;
2. A balance sheet as of the end of such fiscal year;
3. The accountant's comment regarding the manner in which the City has carried out the requirements of this Ordinance, and the accountant's recommendation for any change or improvement in the operation of the System.
4. A list of the insurance policies in force at the end of the fiscal year, setting out as to each policy the amount of the policy, the risks covered, the name of the insurer and the expiration date of the policy.
5. The number of metered water customers at the end of the year, and the number of unmetered water customers at the end of the year. All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance operation and expense.

Section 13: DATING OF BONDS AND FUNDS

In the event this bond issue is not closed until 1976 or thereafter, then and in that event all dates in respect to the bond dating and the funds shall correspond with the year of closing this bond issue.

Section 14: EFFECTIVE DATE.

This Ordinance shall take effect and be in full force upon its passage, approval and posting in five (5) public places within the City of Peck, Idaho.

Passed under suspension of all rules and regulations of the City Council upon such proper roll call votes were duly taken, and duly enacted an Ordinance of this City at a regular meeting of the Council of the City of Peck, Idaho, held on August 12, 1975.

APPROVED: ______________________
MAYOR

ATTEST:

____
CITY CLERK

(Place Seal of City here)