

**RESOLUTION NO. 892**

**A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF STAYTON, MARION COUNTY, OREGON, WASTEWATER REVENUE BOND NO. 1 IN THE PRINCIPAL SUM OF NOT TO EXCEED \$8,316,000 TO THE UNITED STATES OF AMERICA, ACTING THROUGH THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR THE PURPOSE OF PROVIDING A PORTION OF THE COSTS OF IMPROVING THE WASTEWATER SYSTEM, PROVIDING FOR THE FORM AND TERMS OF SAID BOND AND AUTHORIZING THE PAYMENT OF SAME.**

WHEREAS, the City Council (the "City Council") of the City of Stayton, Marion County, Oregon (the "City" or "Borrower"), pursuant to the authority of Oregon Revised Statutes 287A.150, the Constitution and Laws of the State of Oregon and laws amendatory thereof and supplemental thereto, enacted Ordinance No. 912 on July 20, 2009 (the "Ordinance") duly authorizing the City to issue wastewater revenue bonds in an amount not to exceed \$10,000,000 to finance a portion of the costs of improvements to the wastewater system, and to fund any necessary reserves and costs of issuance. Collectively, the development, construction, improvements and repairs to the City's wastewater system and related facilities within the boundaries of the City, are referred to herein as the "Project" and the facilities are collectively referred to herein as the "Facility"; and

WHEREAS, the Ordinance was duly passed as a non-emergency ordinance and no petitions were filed by the electors of the City on or before August 19, 2009, the 30<sup>th</sup> day after the adoption of the Ordinance.

WHEREAS, the United States of America, acting through the United States Department of Agriculture (the "Government") appropriated \$8,316,000, as set forth in a Letter of Conditions dated June 10, 2010, as amended by the Amendment No. 1 dated August 29 2012 to the Letter of Conditions, to loan that amount to the City at an interest rate of 2.75% per annum for the Project; and

WHEREAS, the City has been directed to proceed in accordance with law to issue the bonds, and concurrently therewith and subsequent thereto the City has commenced negotiations with the Government for financial assistance to improve the Facility; and,

WHEREAS, the Government has indicated a desire to consider 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 Government and to comply with any requirements, terms, and conditions prescribed by the Government or by Government 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 improve the Facility for and on behalf of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STAYTON:

SECTION 1. It is necessary to defray a portion of the costs of improving the Facility by obtaining a loan made by the Government in accordance with the applicable provisions of the Rural Development Act of 1972, and the Government has acknowledged that the City is unable to obtain sufficient credit elsewhere to finance the Facility taking into consideration prevailing private and cooperative rates and terms concurrently available.

SECTION 2. The City shall borrow \$8,316,000 and issue as evidence thereof an installment Wastewater Revenue Bond No. 1 (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:

**UNITED STATES OF AMERICA  
STATE OF OREGON  
COUNTY OF MARION COUNTY  
CITY OF STAYTON  
WASTEWATER REVENUE BOND NO. 1**

KNOW ALL MEN BY THESE PRESENTS: The City of Stayton, Marion 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, hereinafter called the "Government", the principal sum of Eight Million Three Hundred Sixteen Thousand Dollars (\$8,316,000) plus interest on the unpaid principal balance at the rate of 2.75% per annum. The said principal and interest shall be payable in the following installments on or before the following dates:

The sum of \$345,447 on the 6<sup>th</sup> day of September, 2013, and the sum of \$345,447 annually thereafter on the 6<sup>th</sup> day of September 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.

All or part of the outstanding bond installments may be paid in inverse order on any date without premiums.

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 Borrower, each registration to be noted on the Bond Registration Certificate attached hereto by the City Administrator of the Borrower 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 (as such registered holder) at the Government's Office of the United State Department of Agriculture, Rural Development, serving Marion County, Oregon.

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

This bond is given as evidence of a loan to the Borrower made by the Government pursuant to the Rural Development Act of 1972, as amended, and shall be subject to the present regulations of the Government or its successor agency not inconsistent with the express provisions hereof.

This bond is authorized and issued by virtue of Ordinance No. 912 enacted by the City Council of the Borrower on July 20, 2009 and by Resolution No. 892 adopted by the City Council of the Borrower on September 4, 2012 (collectively, the "Resolution"), and pursuant to the Constitution and Laws of the State of Oregon, and laws amendatory thereof and supplemental thereto.

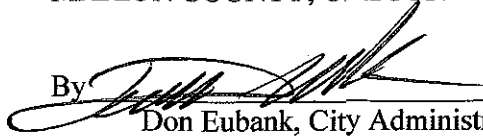
This bond and the interest thereon are payable solely from the net revenues of the wastewater system of the Borrower and neither the bond nor the payment of interest impose any general liability upon the Borrower for the payment thereof out of any monies other than net revenues of the wastewater system. It is hereby covenanted by the Borrower that so long as this bond shall be outstanding and unpaid, or until there shall have been set apart solely for that purpose sums sufficient to pay when due the entire principal sum hereof together with interest accrued, or to accrue thereon, the Borrower shall fix and collect charges for wastewater system services, such as to provide revenue sufficient to pay, as the same shall become due, the principal and interest of this bond, and in addition, to pay, as the same become due, the necessary expenses of operating, maintaining, renewing and replacing the wastewater system of the Borrower, from appropriate reserve funds for such purposes and all other obligations and indebtedness payable out of the revenues of the wastewater 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 Borrower for registered bonds of the denomination of \$5,000.00 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 2.75% 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, 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 Resolution of the Borrower.

IN WITNESS WHEREOF, the City of Stayton, Marion County, Oregon has caused this bond to be signed by its City Administrator and attested by its Finance Director, all on the 6<sup>th</sup> day of September, 2012.

**CITY OF STAYTON  
MARION COUNTY, OREGON**

By  \_\_\_\_\_  
Don Eubank, City Administrator

ATTEST:

By  \_\_\_\_\_  
Christine Shaffer, Finance Director

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**BOND REGISTRATION CERTIFICATE**

**CITY OF STAYTON  
MARION COUNTY, OREGON**

**WASTEWATER REVENUE BOND NO. 1**

**DATE: September 6, 2012**

**Registered in name of:  
United States of America**

By: 

Don Eubank, City Administrator

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[End of bond form.]

SECTION 3. The unobligated net revenues of the wastewater system, after payment of the ordinary operation and maintenance expenses thereof, are pledged to the payment of the principal of and interest upon the Bond.

SECTION 4. The City Administrator 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 or in the Local Government Investment Pool. The City Administrator shall execute a Fidelity Bond in an amount not less than \$345,447 with a surety company approved by the Government and the amount thereof shall not be reduced without the prior written consent of the Government. The City Administrator is hereby directed to establish the following accounts into which the current funds of the Bond proceeds, 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 Bond 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 any of the following City officials: the City Administrator or the Finance Director or their designee, as authorized by the City Council, and only for the purposes for which said bond was 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; provided, however, that the proceeds of the Bond deposited in the Construction Account shall be used to retire any interim financing. The Construction Account shall then be closed.

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

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

ii. Debt Service Account (bookkeeping account). After the transfer required in item 1 above, there shall be transferred each month from the Revenue Account or other available funds pledged to the Bond, 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 September. 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.

(c) Reserve Account (bookkeeping account). The Borrower shall establish and maintain a Reserve Account. There shall be set aside and deposited in the Reserve Account the sum of \$34,545 annually until there is accumulated in that fund the sum of \$345,447 after which no further deposits need be made into said account 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 any unforeseen catastrophe and when necessary for the purpose of making payments of principal and interest on the Bond hereby authorized in the event the amount of the Debt Service Account is insufficient to meet such payments. Approval by the Government is required prior to the use of the Reserve Account funds. Whenever disbursements are made from the Reserve Account, the deposits shall be resumed until there is again accumulated the amount of \$345,447 at which time deposits may be again discontinued.

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

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

(b) The Borrower will comply with applicable State laws and regulations and continually operate and maintain the Facility in good condition.

(c) The Borrower 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 Borrower; and that no free use of the Facility will be permitted.

(d) The Borrower 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 Government, without request, a copy of each annual audit report. At all reasonable times the Government shall have the right to inspect the Facility and the records, accounts and data of the Borrower relating thereto.

(e) The Borrower will maintain such insurance coverage as may be required by the Government.

(f) The Borrower 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 Government.

(g) The Borrower 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 the prior written consent of the Government.

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

(i) The Borrower will comply with all federal laws and regulations to maintain the tax-exempt status of Bond interest from Federal income taxation and Oregon personal income taxation.

SECTION 6. If at any time it shall appear to the Government that the Borrower 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 Borrower will, upon request of the Government, apply for and accept such loan in an amount sufficient to repay the Government and will take all such actions as may be required in connection with such loan.

SECTION 7. The City Administrator and the Finance Director or their designee (the "Authorized Representative") are hereby authorized and directed to execute for and on behalf of the Borrower 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, Form RD 1942-47, "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 - Primary Covered Transactions", Form AD-1048, "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions", and if an 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)," and to act on behalf of the City and determine the terms of the Bond and to execute any certificates, documents or agreements that the Authorized Representative determines are desirable to issue, sell and deliver the Bond in accordance with this Resolution.

SECTION 9. The Borrower desires and deems it necessary and advisable for the immediate preservation of the health, peace, and safety of the City that this Resolution shall become effective at once, therefore, an emergency is hereby declared to exist and this resolution shall be in full force and effect from and after its passage and approval.

This Resolution shall become effective upon its adoption by the Stayton City Council.

ADOPTED BY THE STAYTON CITY COUNCIL this 4<sup>th</sup> day of September, 2012.

**CITY OF STAYTON, OREGON**

Signed: 9-4-2012, 2012

By [Signature]  
A. Scott Vigil, Mayor

Signed: 9/4, 2012

ATTEST: [Signature]  
Don Eubank, City Administrator

APPROVED AS TO FORM:

By [Signature]  
David A. Rhoten, City Attorney