

RESOLUTION NO. 25-1990

A RESOLUTION PROVIDING FOR THE ISSUANCE AND SALE OF THE CITY OF MILWAUKIE, OREGON, WATER REVENUE BONDS, SERIES 1990 IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,300,000 AND RELATED MATTERS.

The Council of the City of Milwaukie, Oregon (the "City") resolves:

Section 1. Findings. The Council finds it advantageous to issue revenue bonds of the City to finance the costs of the water system improvements (the "Project") for the City.

Section 2. Definitions. As used in this Resolution, the following words shall have the following meanings:

(a) "Bonds" means the Series 1990 Bonds and any Parity Obligations issued pursuant to this Resolution.

(b) "Code" means the Internal Revenue Code of 1986, as amended.

(c) "Construction Account" means the Water Construction Account established pursuant to Section 7 hereof by the City; Bonds net proceeds will be deposited in the Construction Account.

(d) "City" means the City of Milwaukie in Clackamas and Multnomah Counties, Oregon, a municipal corporation of the State of Oregon.

(e) "Council" means the governing body of the City.

(f) "Default" means any event specified in Section 17(a) of this Resolution.

(g) "Gross Revenues" means all fees and charges, including systems development charges, resulting from provision of water services, revenues from product sales, and other revenues required to be placed in the Water Fund and Water SDC Reserve Fund under this Resolution, and any interest earnings on the Water Fund which earnings are held in the Water Fund; however, Gross Revenues does not include: (i) any payments of assessments levied against benefited properties; (ii) the proceeds of any grants; (iii) the proceeds of any borrowing for capital improvements; (iv) the proceeds of any liability insurance, and (v) the proceeds of any casualty insurance which

the City intends to utilize for repair or replacement of Water Facilities.

(h) "Net Operating Revenues" means the Gross Revenues less the Operating Expenses.

(i) "Operating Expenses" means all expenses incurred for operation, maintenance and repair of the Water Facilities, including but not limited to administrative expenses, financial and auditing expenses, insurance premiums, claims (to the extent moneys are not available from proceeds of insurance), taxes, legal and engineering expenses relating to operation and maintenance, payments and reserves for pension, retirement, health, hospitalization, and sick leave benefits, payments to reserve funds, and any other similar expenses to be paid to the extent properly and directly attributable to operations of the system.

(j) "Parity Obligations" means any revenue bonds or other obligations of the City which comply with the provisions of Section 15 of this Resolution for the issuance of Parity Obligations.

(k) "Prior Bonds" means the General Obligation Water Bonds of the City dated October 15, 1968.

(l) "Project" means the water system improvement facilities which will be financed with the proceeds of the Bonds.

(m) "Redemption Account" means the debt service account previously established pursuant to Section 9 hereof by the City to hold funds to be used to pay Bond principal and interest.

(n) "Registrar" or "Bond Registrar" means that entity which is under contract with the City to serve as paying agent and registrar for the Bonds.

(o) "Required Reserve" means an amount equal to the lesser of:

(i) 10 percent of the par value of the Bonds;

(ii) the maximum annual debt service on the Bonds, defined as the maximum amount in the aggregate of principal of and interest on the Bonds due in one fiscal year, or;

(iii) 125 percent of the average annual debt service on the Bonds, defined as the average amount in the

aggregate of principal of and interest on the Bonds due in one fiscal year.

(p) "Reserve Account" means the Debt Service Reserve Account established pursuant to Section 9 hereof.

(q) "Resolution" means this Resolution.

(r) "Reserve Equivalent" means an insurance policy, surety bond or letter of credit issued by a municipal bond insurance company or a commercial bank having a credit rating (when the policy, bond, or letter of credit is issued) of at least Aa or AA as determined by Moody's Investors Services or Standard & Poor's Corporation, or their successors, in which the insurance company or commercial bank agrees unconditionally to provide the City with funds for the payment of debt service on the Series 1990 Bonds and any obligations issued on a parity therewith. Each Reserve Equivalent must be unconditional and irrevocable, and either be in effect until the final maturity date of a series of bonds, or if it expires sooner, the City shall provide a substitute Reserve Equivalent or fund the Reserve Account with cash prior to the expiration date of the Reserve Equivalent.

(s) "Water Fund" means the Water Fund maintained by the City into which the Gross Revenues are deposited.

(t) "Water Facilities," "water system," or "system" means all real and personal property now or hereafter owned, operated, used, or maintained by the City for water distribution, treatment and purification within or without the corporate limits of the City.

(u) "Subordinate Obligations" means any obligations of the City payable from Net Operating Revenues which comply with the provisions of Section 16 hereof.

(v) "Underwriter" means Piper, Jaffray & Hopwood, Inc.

Section 3. The Series 1990 Bonds. Pursuant to the authority of ORS 288.805 to 288.945, the Council hereby authorizes and directs the issuance of the City of Milwaukie, Clackamas and Multnomah Counties, Oregon Water Revenue Bonds, Series 1990, in the aggregate principal amount One Million Three Hundred Thousand Dollars (\$1,300,000) (the "Bonds"). The Bonds shall be dated August 1, 1990, shall be in registered form, shall be in denominations of \$5,000 or any integral multiple thereof, shall bear interest payable semiannually on the fifteenth days of April and October in each year until maturity or prior redemption, commencing April 15, 1991, and shall mature on the fifteenth day of April in the following years and amounts:

<u>YEAR</u>	<u>AMOUNT</u>	<u>YEAR</u>	<u>AMOUNT</u>
1991	\$15,000	1999	\$ 35,000
1992	15,000	2000	40,000
1993	20,000	2001	75,000
1994	20,000	2002	80,000
1995	25,000	2003	85,000
1996	25,000	2004	90,000
1997	30,000	2005	100,000
1998	35,000	2010	610,000

Principal and interest on the Bonds shall be payable through the principal corporate trust office of the Registrar of the City. The Bonds shall be special obligations of the City, and shall be payable solely from the Net Operating Revenues, as provided by this Resolution.

Section 4. Redemption. The City reserves the right to redeem all or any portion of the Bonds then outstanding in inverse order of maturity and by lot within a maturity on the following dates at the following prices expressed as percentages of the principal amount, plus accrued interest to the date fixed for redemption.

<u>If Redeemed On</u>	<u>Redemption Price</u>
April 15, 1998 and October 15, 1998	102%
April 15, 1999 and October 15, 1999	101%
April 15, 2000 and thereafter	100%

The Bonds maturing April 15, 2010 shall be subject to mandatory redemption by lot, at par plus accrued interest to the date fixed for redemption, in the amounts and on the dates set forth below:

<u>Redemption Date</u> <u>(April 15)</u>	<u>Principal Amount</u>
2006	\$105,000
2007	\$115,000
2008	\$120,000
2009	\$130,000
2010*	\$140,000

*Maturity

Section 5. Notice of Redemption. Unless waived by any owner of Bonds to be redeemed, official notice of any such

redemption shall be given by the Registrar on behalf of the City by mailing a copy of an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register or at such other address as is furnished in writing by such registered owner to the Registrar.

All official notices of redemption shall be dated and shall state:

- (a) the redemption date,
- (b) the redemption price,
- (c) if less than all outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (d) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and
- (e) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Registrar.

Prior to any redemption date, the City shall deposit with the Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the registered owner a new Bond or Bonds of the same maturity in the amount of the unpaid principal. All Bonds which have been redeemed shall be cancelled and destroyed by the Registrar and shall not be reissued.

In addition to the foregoing notice, further notice shall be given by the Registrar as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(i) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the Bonds as originally issued; (C) the rate of interest borne by each Bond being redeemed; (D) the maturity date of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed.

(ii) Each further notice of redemption shall be sent at least 35 days before the redemption date by registered or certified mail or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago, Illinois and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania) and to one or more national information services that disseminate notices of redemption of obligations such as the Bonds (such as Financial Information, Inc.'s Financial Daily Called Bond Service; Interactive Data Corporation's Bond Service; Kenny Information Service's Called Bond Service; Moody's Municipal and Government; and Standard & Poor's Called Bond Record.

(iii) Each such further notice shall be published one time in The Bond Buyer of New York, New York or, if such publication is impractical or unlikely to reach a substantial number of the holders of the Bonds, in some other financial newspaper or journal which regularly carries notices of redemption of other obligations similar to the Bonds, such publication to be made at least 30 days prior to the date fixed for redemption.

(iv) Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

Section 6. Form of Bond. The Bonds shall be in substantially the form attached hereto as Exhibit B.

No. R-_____

\$_____

STATE OF OREGON
CITY OF MILWAUKIE
COUNTIES OF CLACKAMAS AND MULTNOMAH
WATER REVENUE BOND, SERIES 1990

DATED	INTEREST	% PER ANNUM	MATURITY DATE
CUSIP	REGISTERED OWNER		PRINCIPAL AMOUNT

THE CITY OF MILWAUKIE, in the Counties of Clackamas and Multnomah, State of Oregon (the "City"), for value received, acknowledges itself indebted and hereby promises to pay to the registered owner hereof, or registered assigns, but solely from the sources indicated below, the Principal Amount on the Maturity Date together with interest thereon from the date hereof of the rate per annum indicated above. Interest is payable semiannually on the fifteenth days of April and October in each year until maturity or prior redemption, commencing April 15, 1991. Interest upon this bond is payable through the principal corporate trust office of the City's paying agent and registrar (the "Registrar") by check or draft. Checks or drafts will be mailed on the interest payment date (or the next business day if the interest payment date is not a business day) to the name and address of the registered owner as they appear on the bond register as of the fifteenth day of the month prior to the interest payment date. Bond principal is payable upon presentation and surrender of this bond to the Registrar.

ADDITIONAL PROVISIONS OF THIS BOND APPEAR ON THE REVERSE SIDE; THESE PROVISIONS HAVE THE SAME EFFECT AS IF THEY WERE PRINTED HEREIN.

This revenue bond is not a general obligation or liability of the City, and is payable solely from the Net Operating Revenues of the Water Facilities as provided in a Resolution of the City adopted July 10, 1990 (the "Resolution"). The City covenants and agrees with the owner of this bond that it will keep and perform all of the covenants in this bond and in the Resolution. The City has pledged the Net Operating Revenues of the Water Facilities to the payment of principal and interest on this bond.

IT IS HEREBY CERTIFIED, RECITED, AND DECLARED that all conditions, acts, and things required to exist, to happen, and to 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 the Constitution and Statutes of

the State of Oregon and the Charter of the City; that the issue of which this bond is a part, and all other obligations of such City, are within every debt limitation and other limits prescribed by such Constitution, Statutes and Charter.

IN WITNESS WHEREOF, the Council of the City of Milwaukie, Clackamas and Multnomah Counties, Oregon, has caused this bond to be signed by facsimile signature of its Mayor and attested by facsimile signature of its Recorder, as of the date indicated below.

Mayor

ATTEST:

Recorder

THIS BOND SHALL NOT BE VALID UNLESS PROPERLY AUTHENTICATED BY THE REGISTRAR IN THE SPACE INDICATED BELOW.

CERTIFICATE OF AUTHENTICATION

This is one of the City of Milwaukie, Clackamas and Multnomah Counties, Oregon Water Revenue Bonds, Series 1990 pursuant to the Resolution described herein.

DATED

UNITED STATES NATIONAL BANK OF OREGON,
as Registrar

Note to Printer: The following language should be printed on the reverse of the bond:

This bond is one of the Water Revenue Bonds, Series 1990 (the "Bonds"), of the City, and is issued by the City for the purposes of financing water system improvements in full and strict accordance and compliance with all of the provisions of the Constitution and Statutes of the State of Oregon and the Charter of the City.

The City reserves the right to redeem all or any portion of the bonds then outstanding in inverse order of maturity and by lot within a maturity on the following dates at

the following prices expressed as percentages of the principal amount, plus accrued interest to the date fixed for redemption:

<u>If Redeemed On</u>	<u>Redemption Price</u>
April 15, 1998 and October 15, 1998	102%
April 15, 1999 and October 15, 1999	101%
April 15, 2000 and thereafter	100%

The Bonds maturing April 15, 2010 shall be subject to mandatory redemption by lot, at par plus accrued interest to the date fixed for redemption, in the amounts and on the dates set forth below:

<u>Redemption Date (April 15)</u>	<u>Principal Amount</u>
2006	\$105,000
2007	\$115,000
2008	\$120,000
2009	\$130,000
2010*	\$140,000

*Maturity

Notice of any call or redemption, unless waived, shall be mailed not less than thirty days and not more than sixty days prior to such call to the registered owners of the bonds, and otherwise given as required by law and the Resolution; however, any failure to give notice shall not invalidate the redemption of the bonds. All bonds called for redemption shall cease to bear interest from the date designated in the notice.

This bond may be exchanged for an equal aggregate principal amount of registered bonds of the same maturity and of any other authorized denominations in the manner, and subject to the conditions set forth in the Resolution.

Any transfer of this bond must be registered, as provided in the Resolution, upon the Bond Register kept for that purpose at the office of the Registrar. This bond may be registered only by surrendering it, together with a written instrument of transfer which is satisfactory to the Registrar and which is executed by the registered owner or his duly authorized attorney. Upon registration, a new registered bond or bonds, of the same series and maturity and in the same aggregate principal amount, shall be issued to the transferee as provided in the Resolution. The City may treat the person in whose name this bond is registered on the Bond Registrar as its absolute owner for all purposes, as provided in the Resolution.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto _____

Please insert social security or other identifying number of assignee

the within bond and does hereby irrevocably constitute and appoint _____, as attorney to transfer this bond on the books kept for registration thereof with the full power of substitution in the premises.

Dated: _____

NOTICE: The signature to 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 Brokerage Firm)

Authorized Officer

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM -- tenants in common
TEN ENT -- as tenants by the entireties
JT TEN -- as joint tenants with right of survivorship
and not as tenants in common
OREGON CUSTODIANS use the following
_____ CUST UL OREG _____ MIN

as custodian for (name of minor)
OR UNIF TRANS MIN ACT
under the Oregon Uniform Transfer to Minors Act

Additional abbreviations may also be used though not in the list above.

Section 7. Disposition of Bond Proceeds and Creation of the Construction Account. Interest accrued from the date of the Bonds until the date of closing shall be placed in the Redemption Account, and shall be used to pay interest on the Series 1990 Bonds. An amount equal to the Required Reserve or Reserve Equivalents shall be placed in the Reserve Account. Bond proceeds shall be placed in the Construction Account, previously created, and shall be disbursed only to finance the Project and costs incurred in connection with the issuance of the Series 1990 Bonds.

Moneys in the Construction Account may be invested in such investments as are authorized by law for the City. Earnings from investment of the funds in the Construction Account shall be maintained in the Construction Account, and shall be treated and disbursed as Bond proceeds. Any proceeds of the Bonds remaining after payment of all Project and issuance costs shall be transferred to the Water Fund.

Section 8. Deposit and Use of Revenues. The City shall deposit all Gross Revenues into the Water Fund. As long as any Bonds remain issued and outstanding, moneys in the Water Fund shall be used solely to pay the following amounts in the following order:

- (a) To pay Operating Expenses,
- (b) To pay principal and interest on the Prior Bonds,
- (c) To make payments to the Redemption Account to pay Bond principal and interest,
- (d) To make any payment required under a Reserve Equivalent,
- (e) To make payments to the Reserve Account to eliminate any deficiency in the Required Reserve, and
- (f) To pay for capital improvements to the Water System and for the repair, restoration and enlargements or for administrative expenses of the Water System.

Section 9. Creation of Accounts.

(a) A debt service account was previously created by the City and is known as the Redemption Account. The City shall deposit into the Redemption Account, solely from the Water Fund and the Reserve Account, money sufficient to make payments of Bond principal and interest in accordance with Section 10 of this Resolution.

(b) A Debt Service Reserve Account was previously created. Immediately upon the sale and delivery of the Bonds, the City shall deposit to the Reserve Account an amount equal to the Required Reserve, if any.

(i) The Reserve Account and the moneys therein are irrevocably pledged to the payment of the Bonds, and such funds may be applied upon the final maturity of the principal of and interest on the Bonds. In the event the balance in the Redemption Account is insufficient to pay the maturing principal of, or sinking fund installment, or interest on the Bonds, then the City shall withdraw from the Reserve Account for transfer to the Redemption Account sufficient moneys to make such payments when due. Thereafter, the City shall transfer from the next available deposits to the Water Fund sufficient moneys to restore the balance in the Reserve Account to the required amount.

(ii) The City covenants with the owners of the Bonds that it will, on each Bond payment date so long as any Bonds remain outstanding, deposit from the Net Operating Revenues into the Reserve Account an amount equal to any deficiency in the Required Reserve in accordance with Section 10 of this Resolution. In the event the amount on deposit in the Reserve Account is less than the Required Reserve, the deficiency shall be eliminated solely from payments for such purpose available from the Water Fund. In the event the amount on deposit in the Reserve Account is more than the Required Reserve, any such excess will be transferred, not less frequently than every three months, to the Construction Account, or, after completion of the Project, to the Water Fund.

(c) Moneys in the Construction Account, the Debt Service Reserve Account, and the Redemption Account may be commingled with other moneys of the City, but shall be segregated for accounting purposes.

Section 10. Pledge and Disposition of Net Operating Revenues to Redemption Account.

(a) Pursuant to ORS 288.660, the City hereby pledges the Net Operating Revenues to the payment of principal and interest on all Bonds and the payments of any amounts due under a Reserve Equivalent.

(b) The City hereby covenants with the owners of the Bonds that it will, so long as any Bonds remain outstanding, deposit to the Redemption Account not later than five business days prior to the date in which a debt service payment is to be made:

(i) an amount not less than the amount required to pay the interest due on the Bonds on the next interest payment date,

(ii) and a further amount not less than the amount required for the payment of principal of, or sinking fund installment of, the Bonds to be retired on the next principal maturity date.

Section 11. Rate Covenant.

(a) The City covenants that it will charge fees in connection with the operation of the Water Facilities which are projected to generate Net Operating Revenues at least equal to 1.25 times the fiscal year annual debt service on all outstanding Bonds. If the Net Operating Revenues fail to meet this level, the City shall promptly increase its fees to a level so that Net Operating Revenues are projected to meet the required level; and

(b) No free use of the Water System will be permitted, except as provided in Section 12(e) hereof.

Section 12. General Covenants. The City hereby covenants and agrees with the owners of all outstanding Bonds as follows:

(a) That it will, to the extent the Net Operating Revenues are sufficient, promptly cause the principal and interest on the Bonds to be paid as they become due.

(b) That it will maintain complete books and records relating to the operation of the Water System, the Water Fund, the Construction Account, the Redemption Account, Operating Account, and the Reserve Fund, in accordance with generally accepted accounting principles, and will cause such books and records to be audited annually at the end of each fiscal year,

and an audit report prepared and made available for the inspection of Bondowners.

(c) That it will not issue Bonds or other obligations having a claim superior to the claim of the Bonds upon the Net Operating Revenues.

(d) The City will promptly deposit into the Water Fund all sums required to be so deposited.

(e) That it will operate the Water System in a sound, efficient and economic manner, and will not enter into any agreements to provide free service or services except for fire fighting, reservoir flushing, or in case of emergency.

Section 13. ^{NECESSARY MUNICIPAL PURPOSES} Maintenance of Tax-Exempt Status. The City covenants for the benefit of the owners of the Bonds to comply with all provisions of the Code which are required for Bond interest to be exempt from federal income taxation (except for certain taxes on corporations), unless the City obtains an opinion of nationally recognized bond counsel that such compliance is not required for the interest paid on the Bonds to be so exempt. The City makes the following specific covenants with respect to the Code:

(a) The City will not take any action or omit any action if it would cause the Bonds to become "arbitrage bonds" under Section 148 of the Code, and shall pay any rebates to the United States which are required by Section 148(f) of the Code.

(b) The City shall operate the facilities financed with the Bonds so that the Bonds are not "private activity bonds" within the meaning of Section 141 of the Code.

(c) The City shall comply with all reporting requirements.

The covenants contained in this section and any covenants in the closing documents for the Bonds shall constitute contracts with the owners of the Bonds, and shall be enforceable by them.

Section 14. Authentication, Registration and Transfer.

(a) No Bond shall be entitled to any right or benefit under this Resolution unless it shall have been authenticated by an authorized officer of the Registrar. The Registrar shall authenticate all Bonds to be delivered at closing, and shall additionally authenticate all Bonds properly surrendered for exchange or transfer pursuant to this Resolution.

(b) All Bonds shall be in registered form. The City hereby appoints United States National Bank of Oregon to serve as Registrar for the Bonds. A successor Registrar may be appointed for the Bonds by ordinance or resolution of the City. The Registrar shall provide notice to Bondowners of any change in the Registrar not later than the Bond payment date following the change in Registrar.

(c) The ownership of all Bonds shall be entered in the Bond Register maintained by the Registrar, and the City and Registrar may treat the person listed as owner in the Bond Register as the owner of the Bond for all purposes.

(d) The Registrar shall mail each interest payment on the interest payment date (or the next business day if the interest payment date is a business day) to the registered owner of the Bond at the address appearing on the Bond Register as of the first day of the month preceding an interest payment date (the "Record Date"). If payment is so mailed, neither the City nor the Registrar shall have any further liability to any party for such payment.

(e) Bonds may be exchanged for an equal principal amount of Bonds of the same maturity which are in different authorized denominations, and Bonds may be transferred to other owners if the Bondowner submits the following to the Registrar:

(i) written instructions for exchange or transfer satisfactory to the Registrar, signed by the Bondowner or his attorney in fact and guaranteed or witnessed in a manner satisfactory to the Registrar; and

(ii) the Bonds to be exchanged or transferred.

(f) The Registrar shall not be required to exchange or transfer any Bonds submitted to it during any period beginning with a Record Date and ending on the next following interest payment date; however, such Bonds shall be exchanged or transferred promptly following the interest payment date.

(g) The Registrar shall not be required to exchange or transfer any Bonds which have been designated for redemption if such Bonds are submitted to it during the fifteen-day period preceding the designated redemption date.

(h) For purposes of this section, Bonds shall be considered submitted to the Registrar on the date the Registrar actually receives the materials described in subsection (e) of this section.

(i) The City may alter these provisions regarding registration and transfer by mailing notification of the altered provisions to all Bondowners. The altered provisions shall take effect on the date stated in the notice, which shall not be earlier than 45 days after notice is mailed.

Section 15. Parity Obligations.

(a) The City may issue additional obligations (the "Parity Obligations") on a parity with the Bonds, which shall be secured in all respects in the same manner as the Bonds and shall be issued for the purpose of making additions, enlargements, replacements, extensions and improvements to the System. Such Parity Obligations may be issued upon compliance with the following conditions:

(i) No Default has occurred or is continuing;

(ii) At the time of the issuance of the Parity Obligations there is no deficiency in the Redemption Account and the Reserve Account;

(iii) Provisions shall be made to deposit to the Debt Service Reserve Account a sum equal to the Required Reserve in connection with the Parity Obligations;

(iv) The Resolution authorizing the issuance of the Parity Obligations contains a covenant requiring the City to charge rates and fees projected to generate Net Operating Revenues equal to the amount described in Section 11 of this Resolution, including the proposed Parity Obligations.

(v) Either: (A) the Net Operating Revenues for any 12 consecutive months during the 24 months preceding the date of issuance of the Parity Obligations were not less than 1.25 times the actual debt service of the Bonds for the immediately preceding 12 months, plus the average annual debt service for the proposed Parity Obligations as certified by a qualified engineering, auditing, or other qualified firm; or (B) the Net Operating Revenues as projected for the next ensuing three fiscal years and as certified by a qualified engineering, auditing, or other qualified firm (including any rate increases adopted by the Council) are not less than 1.25 times the actual debt service for the ensuing three fiscal year's debt service on the Series 1990 Bonds plus the average annual debt service on the proposed Parity Obligations.

(vi) In determining whether the City complies with the conditions for the issuance of Parity Obligations,

the following adjustments may be made to the Net Operating Revenues in the certificate as required in the paragraph above:

(A) Any rate change that has taken place or previously has been approved and is effective may be reflected in the Net Operating Revenues of the twelve-month term;

(B) Any increase in the Net Operating Revenues estimated to result from any additions, betterments and improvements to and extensions of the water system which become operational during such twelve-month period, or were under construction at the time of such certificate, may be included in the determination;

(C) Additional revenues to be realized from water system users added to the water system during or subsequent to the twelve-month term;

(vii) The adoption of an ordinance by the City Council containing provisions incorporating and making binding upon the registered owners of the Parity Obligations all provisions of the Ordinance which describe the rights and obligations of the registered owners of the Bonds; and

(viii) The Parity Obligations, when issued in accordance with this section shall be secured on a parity with and equally and ratably with the Bonds and the Parity Obligations, without preference, priority or distinction because of the date of the issue of such Bonds or the Parity Obligations.

(b) The City may issue Parity Obligations to refund all or any portion of the Bonds without meeting the requirements of Additional Parity Obligation requirements set forth above provided that the total debt service in each year of such refunding bonds does not exceed by more than \$5,000 the amount of the debt service in the respective year of the Bonds being refunded.

Section 16. Subordinate Obligations. The City may issue Subordinate Obligations to provide funds to finance the construction of the Water Facilities improvements, the repair and improvement of the existing Water Facilities, or the refunding of outstanding Bonds, provided no default has occurred and is continuing.

All Subordinate Obligations shall have a lien on the Net Operating Revenues which is subordinate to the lien of the

Series 1990 Bonds and all Parity Obligations issued in accordance with Section 15 of this Resolution. In the event of any insolvency or bankruptcy proceedings relative to the City or to its property, the holders of the Series 1990 Bonds and the Parity Obligations shall be entitled to receive payment in full of all principal, premium (if any) and interest thereon (including interest accruing after the commencement of any proceeding) before the holders of the Subordinated Obligations are entitled to receive any payment on account of principal, premium (if any) or principal upon the Subordinated Obligations.

Section 17. Default.

(a) The following events shall constitute Default:

(i) Failure to pay Bond principal or interest when due; or

(ii) Failure to perform any other obligation of the City imposed by this Resolution or the Bonds, but only if:

(A) the failure continues for a period of more than ninety (90) days after demand has been made on the City to remedy the failure; and

(B) the City fails to take reasonable steps to remedy the failure within that ninety-day period; or

(iii) Imposition of a receivership upon, or liquidation of, the Water Fund; or,

(iv) Written admission by the City that the City is unable to pay its debts as they become due.

(b) Upon Default, any Bondowner may exercise any remedy available at law or in equity.

Section 18. Insurance. The City covenants to maintain insurance, or a reasonable system of self insurance, appropriate to the risks associated with operation of its Water Facilities.

Section 19. Sales, Leases and Encumbrances. The City may not sell or exchange or otherwise dispose of any property constituting a part of the Water Facilities unless such property is either worn out or obsolete or, in the opinion of the City, is no longer useful in the operation of the Water Facilities. Any proceeds of such sale, exchange or other disposition not used to replace the property so sold or exchanged shall be deposited in the Water Fund.

The City may mortgage, grant security interests in, or otherwise encumber the Water Facilities, provided that the aggregate annual payments required to be made by the Water Fund under all such mortgages, security interests, encumbrances and leases shall not in any fiscal year exceed 25 percent of the Operating Expenses for such fiscal year. The City may also lease as lessor or make contracts or grant licenses for the operation of, or grant easements or other rights with respect to any part of the Water Facilities if such lease, contract, license, easement or right does not, in the opinion of the City, impede the operation of the Water Facilities.

Section 20. Amendment of Resolution.

(a) This Resolution may be amended without the consent of any Bondowners for any one or more of the following purposes:

(i) To add to the covenants and agreements of the City in this Resolution any other covenants and agreements thereafter to be observed by the City, or to surrender any right or power herein reserved to or conferred upon the City;

(ii) To cure any ambiguity or formal defect contained in this Resolution, if that cure does not, in the judgment of the Council, adversely affect the interests of the Bondowners.

(iii) To issue Parity Obligations in accordance with Section 15 hereof.

(iv) To issue Subordinate Obligations in accordance with Section 16 hereof.

(b) This Resolution may be amended for any other purpose only upon consent of the Bondowners of not less than 67 percent in aggregate principal amount of the Bonds outstanding; provided, however, that no amendment shall be valid which:

(i) Extends the maturity of any Bond, reduces the rate of interest upon any Bond, extends the time of payment of interest on any Bond, reduces the amount of principal payable on any Bond, or reduces any premium payable on any Bond, without the consent of the affected Bondowner; or

(ii) Reduces the percent of Bondowners required to approve amendatory resolutions and orders.

~~Section 21. Defeasance. The lien of the Bonds upon the Net Operating Revenues may be defeased, and the Bonds shall~~

Section 21. Defeasance. The lien of the Bonds upon the Net Operating Revenues may be defeased, and the Bonds shall be deemed paid, if the City places in irrevocable escrow direct obligations of, or obligations guaranteed by, the United States which are calculated to be sufficient, without reinvestment, to pay principal, interest and any premium on the Bonds as they become due, either at maturity or on prior redemption.

Section 22. Designation of Bonds as Qualified Tax-Exempt Obligations. The City hereby designates the Bonds as "qualified tax-exempt obligations" pursuant to Section 265(b)(3) of the Code. The City covenants not to so designate tax-exempt obligations in the current calendar year in an aggregate amount of more than \$10,000,000. The City does not reasonably expect to issue more than \$10,000,000 of tax-exempt obligations during the current calendar year.

Section 23. Rebate Exemption. The City has general taxing powers. No portion of the Bond proceeds will be used to finance property which is used in the trade or business of nongovernments, or is loaned to nongovernments. None of the Bonds are "private activity bonds" within the meaning of Section 141 of the Code. At least ninety-five percent of the net proceeds of the Bonds will be used for public improvements which will be owned and operated by the City. The City (and all subordinate entities thereof, if any) does not reasonably expect to issue tax-exempt obligations in calendar year 1990 which have an aggregate face amount of more than \$5,000,000. Accordingly, under Section 148(f)(4)(c) of the Code, no rebates to the United States are required to be paid in connection with the Bonds.

Section 24. Series 1990 Bond Reserve Equivalent. The Finance Director or her designee may contract, on behalf of the City, for a Reserve Equivalent for the Series 1990 Bonds, and may enter into a financial guaranty or other agreement necessary or desirable to obtain the Reserve Equivalent and any Parity Obligations.

Section 25. Additional Actions.

(a) The preparation and distribution of the Preliminary Official Statement and the Official Statement to be used in connection with the sale of the Series 1990 Bonds, and the inclusion therein of the sections describing the activities and finances of the City, are authorized, approved and confirmed. The Finance Director is authorized, empowered and directed to execute the Official Statement for and on behalf of the City to the Underwriters for distribution to the public.

(b) The Finance Director is authorized: (i) to execute a bond purchase agreement with the underwriters pursuant to the terms of this Resolution; (ii) to establish additional accounts and delete accounts; (iii) to take other necessary administrative action to service the Bonds and to secure Bond repayment and (iv) to otherwise structure the Bond sale pursuant to the bond purchase agreement.

(c) The Finance Director, the Mayor and each of them, and their designees, are authorized and empowered to obtain a rating of the Series 1990 Bonds from Standard & Poor's Corporation, Moody's Investor Services, Inc., or such other similar credit rating agency as they shall determine.

(d) The Finance Director, the Mayor and each of them and their designees, are authorized and empowered to obtain a policy of insurance, a letter of credit, or any other form of enhancement of credit under the Bonds, to provide further assurance to Bondowners of the payment of the principal of and interest on the Bonds, and the payment of the sum or charge (if any) for the investment from the proceeds of the Bonds is authorized and approved.

(e) The Finance Director, the Mayor, and their designees, and other appropriate officers of the City shall be, and each of them is, authorized to execute and deliver on behalf of the City any and all additional certificates, documents or other papers and perform other acts (including, without limitation, the filing of any documents) as they may deem necessary or appropriate in order to implement the intent and purpose of this Resolution.

ADOPTED by the unanimous vote of the Council, with a quorum in attendance, this 10th day of July, 1990.

APPROVED by the Mayor this 10th day of July, 1990.

CITY OF MILWAUKIE
CLACKAMAS AND MULTNOMAH COUNTIES, OREGON

Roger A. Hall
Mayor

Executed this 10th day of July, 1990.

ATTEST:

Jerry Z. Wilbur
Recorder