

CITY OF BELLINGHAM, WASHINGTON  
WATER AND SEWER REVENUE AND REFUNDING BONDS

ORDINANCE NO. 2020-07-019

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF WATER AND SEWER REVENUE AND REFUNDING BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$64,000,000 TO REFUND CERTAIN OUTSTANDING WATER AND SEWER REVENUE BONDS, FINANCE CAPITAL IMPROVEMENTS TO THE WATER AND SEWER SYSTEM, MAKE A DEPOSIT TO THE RESERVE ACCOUNT (IF REQUIRED), AND PAY COSTS OF ISSUANCE; DELEGATING AUTHORITY TO APPROVE THE METHOD OF SALE AND FINAL TERMS OF THE BONDS; AND OTHER MATTERS RELATED THERETO.

PASSED: JULY 20, 2020

PREPARED BY:

PACIFICA LAW GROUP LLP

Seattle, Washington

CITY OF BELLINGHAM  
ORDINANCE NO. 2020-07-019  
TABLE OF CONTENTS\*

Section 1.	Definitions.....	2
Section 2.	Interpretation.....	9
Section 3.	Compliance with Parity Conditions .....	9
Section 4.	Findings and Determinations .....	10
Section 5.	Authorization and Description of Bonds .....	10
Section 6.	Registration, Exchange and Payments.....	11
Section 7.	Redemption and Purchase of Bonds .....	13
Section 8.	Form of Bonds .....	16
Section 9.	Execution of Bonds.....	16
Section 10.	Refunding Plan; Application of Bond Proceeds .....	16
Section 11.	Priority of Payments from Revenue of the System.....	18
Section 12.	Bond Fund.....	19
Section 13.	Capital Reserve Accounts.....	21
Section 14.	Lien of the Bonds.....	21
Section 15.	Covenants.....	22
Section 16.	Tax Covenants .....	24
Section 17.	Future Parity Bonds .....	25
Section 18.	Subordinate Lien Obligations .....	28
Section 19.	Defeasance .....	28
Section 20.	Sale of the Bonds .....	28
Section 21.	Preliminary and Final Official Statements.....	30
Section 22.	Undertaking to Provide Ongoing Disclosure.....	30
Section 23.	Amendments .....	30
Section 24.	Lost, Stolen or Destroyed Bonds .....	31
Section 25.	Severability; Ratification .....	31
Section 26.	Corrections by Clerk .....	32
Section 27.	Effective Date .....	32

Exhibit A: Bond Form

\* This Table of Contents is provided for convenience only and is not a part of this ordinance.

CITY OF BELLINGHAM, WASHINGTON

ORDINANCE NO. 2020-07-019

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, AUTHORIZING THE ISSUANCE OF ONE OR MORE SERIES OF WATER AND SEWER REVENUE AND REFUNDING BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$64,000,000 TO REFUND CERTAIN OUTSTANDING WATER AND SEWER REVENUE BONDS, FINANCE CAPITAL IMPROVEMENTS TO THE WATER AND SEWER SYSTEM, MAKE A DEPOSIT TO THE RESERVE ACCOUNT (IF REQUIRED), AND PAY COSTS OF ISSUANCE; DELEGATING AUTHORITY TO APPROVE THE METHOD OF SALE AND FINAL TERMS OF THE BONDS; AND OTHER MATTERS RELATED THERETO.

WHEREAS, the City of Bellingham, Washington (the “City”), owns, operates and maintains a combined water supply and distribution system and sewage collection and disposal system (the “System”); and

WHEREAS, the City has issued and has outstanding the following water and sewer revenue bonds:

Bond Issue	Issue Date	Authorizing Ordinance	Original Principal Amount	Outstanding Principal Amount
Water and Sewer Revenue Bonds, 2011	9/27/2011	2011-08-041	\$ 42,665,000	\$ 38,845,000
Water and Sewer Revenue Refunding Bonds, 2012	3/29/2012	2012-02-006	3,275,000	1,820,000
Water and Sewer Revenue Bonds, 2013	8/27/2013	2013-08-059	15,785,000	15,570,000
Water and Sewer Revenue Refunding Bond, 2015	11/10/2015	2015-09-039	4,035,000	2,861,000

(collectively, the “Outstanding Parity Bonds”); and

WHEREAS, the ordinances authorizing the Outstanding Parity Bonds (the “Outstanding Parity Bond Ordinances”) provide that the Outstanding Parity Bonds may be prepaid or defeased and called for redemption, in whole or in part, prior to their stated dates of maturity (the “Refunding Candidates”); and

WHEREAS, after due consideration it appears to this Council that all or a portion of the Refunding Candidates (as selected for refunding as described herein, the “Refunded Bonds”) may

be prepaid or defeased and refunded by the proceeds of water and sewer revenue refunding bonds at a savings to the City and its ratepayers; and

WHEREAS, the City Council has approved certain improvements of and intensions to the System as identified in the capital improvement programs of the City (as further defined herein, the "Projects"); and

WHEREAS, the Outstanding Parity Bond Ordinances provide that additional water and sewer revenue bonds may be issued on a parity of lien with the Outstanding Parity Bonds if certain conditions are met; and

WHEREAS, the City Council has determined that the conditions to the issuance of parity bonds have been or will be met and that it is in the best interests of the City and its ratepayers that the City issue one or more series of tax-exempt and/or taxable water and sewer revenue and refunding bonds in the aggregate principal amount of not to exceed \$64,000,000 (the "Bonds") for the purpose of prepaying or defeasing and redeeming the Refunded Bonds, financing the Projects, making a deposit to the debt service reserve account (if necessary), and paying costs of issuance for each series of Bonds; and

WHEREAS, the City Council wishes to delegate authority to the Mayor and the Finance Director (each, a "Designated Representative"), for a limited time, to approve the method of sale, to select the Refunded Bonds, and to approve the interest rates, maturity dates, redemption terms and principal maturities for each series of Bonds within the parameters set by this ordinance; and

WHEREAS, the Bonds authorized herein shall be sold by negotiated or competitive public sale as set forth herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BELLINGHAM, WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1.     Definitions. As used in this ordinance, the following words have the following meanings:

***Account*** means one of a variety of ways to track individual assets, liabilities, fund balances, revenues, and expenses so that each item is separately and clearly distinguishable from all other accounts and provides a clear audit trail of sources and uses.

***Acquired Obligations*** mean the Government Obligations acquired by the City under the terms of this ordinance and each Escrow Agreement to effect the prepayment or defeasance and refunding of the Refunded Bonds, but only to the extent that the same are acquired at Fair Market Value.

***Adjusted Net Revenue*** means Net Revenue adjusted by an independent licensed professional engineer or certified public accountant in accordance with the requirements of the Parity Conditions and Section 17 of this ordinance.



***Annual Debt Service*** means, for any fiscal year, the aggregate amount required in such year for the payment of the principal of and interest on the Parity Bonds then outstanding (except the principal maturity of Term Bonds) to which the term Annual Debt Service refers, plus the principal of any Term Bonds subject to a mandatory sinking fund payment or mandatory prior redemption requirement from a Sinking Fund Account for that fiscal year.

***Average Annual Debt Service*** means, as of any calculation date, the sum of the Annual Debt Service for the remaining years to the last scheduled maturity of any Parity Bonds then outstanding, divided by the number of those years.

***Beneficial Owner*** means any person that has or shares the power, directly or indirectly, to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

***Bond Counsel*** means Pacifica Law Group LLP or an attorney at law or a firm of attorneys, selected by the City, of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on bonds issued by states and their political subdivisions.

***Bond Fund*** means, collectively, the Principal and Interest Account, the Reserve Account and any Sinking Fund Account(s).

***Bond Purchase Contract*** means one or more, if any, bond purchase contracts, forward delivery contracts or other agreements for the purchase of a series of Bonds sold by negotiated sale to the Underwriter, executed by a Designated Representative pursuant to this ordinance.

***Bond Register*** means the registration books showing the name, address and tax identification number of each Registered Owner of a series of Bonds, maintained for the Bonds in the manner required pursuant to Section 149(a) of the Code.

***Bond Registrar*** means, initially, the fiscal agent of the State, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, effecting transfer of ownership of the Bonds and paying interest on and principal of the Bonds.

***Bonds*** means the tax-exempt and/or taxable water and sewer revenue and refunding bonds, of the City authorized to be issued in one or more series pursuant to this ordinance.

***Capital Reserve Accounts*** mean, collectively, those special accounts in the Water Fund and the Sewer Fund of the City previously combined and now known as the "Cash (Restricted for Capital)" accounts.

***Certificate of Award*** means one or more, if any, certificates awarding a series of Bonds sold by competitive sale to the successful bidder, executed by a Designated Representative pursuant to this ordinance.

***City*** means the City of Bellingham, Washington, a municipal corporation duly organized and existing under and by virtue of the laws of the State.

**Code** means the Internal Revenue Code of 1986 as in effect on the date of issuance of any Tax-Exempt Bonds or (except as otherwise referenced herein) as it may be amended to apply to obligations issued on the date of issuance of the Tax-Exempt Bonds, together with applicable proposed, temporary and final regulations promulgated, and applicable official public guidance published, under the Code.

**Commission** means the United States Securities and Exchange Commission.

**Costs of Maintenance and Operation** means all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses of the System, and reasonable pro rata budget charges for services provided to the System by City departments, but excluding depreciation, payments for debt service or into reserve accounts, costs of capital additions to or replacements of the System, municipal taxes, extraordinary items under then applicable accounting standards, and payments to the City in lieu of taxes.

**Continuing Disclosure Certificate** means one or more written undertakings for the benefit of the owners and Beneficial Owners of any Bonds as required by Section (b)(5) of the Rule.

**Council or City Council** means the legislative body of the City as duly and regularly constituted from time to time.

**Coverage Requirement** means Net Revenue equal to 1.25 times Maximum Annual Debt Service. For calculating the Coverage Requirement for Variable Interest Rate Bonds, such Future Parity Bonds shall be assumed to bear interest at a fixed rate equal to the higher of (i) 6% per annum or (ii) (a) the highest variable rate borne during the preceding 24 months by any outstanding Variable Interest Rate Bonds or, (b) if no such Variable Interest Rate Bonds are outstanding at the time of calculation, the rate borne by other variable rate debt the interest rate for which is determined by reference to an index comparable to the index to be used to determine the interest rate on the Future Parity Bonds proposed to be issued.

*Following the full redemption, refunding or defeasance of all 2011 Bonds, the definition of "Coverage Requirement" shall be amended to read "means Net Revenue equal to 1.25 times Annual Debt Service. For calculating the Coverage Requirement for Variable Interest Rate Bonds, such Future Parity Bonds shall be assumed to bear interest at a fixed rate equal to the higher of (i) 6% per annum or (ii) (a) the highest variable rate borne during the preceding 24 months by any outstanding Variable Interest Rate Bonds or, (b) if no such Variable Interest Rate Bonds are outstanding at the time of calculation, the rate borne by other variable rate debt the interest rate for which is determined by reference to an index comparable to the index to be used to determine the interest rate on the Future Parity Bonds proposed to be issued."*

**Coverage Stabilization Account** means the account of that name maintained pursuant to Section 11(b) of this ordinance.

**Designated Representative** means the Finance Director and the Mayor, or the designee of such officers. The signature of one Designated Representative shall be sufficient to bind the City.

**DTC** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York.

**Escrow Agent** means U.S. Bank National Association, and its successors.

**Escrow Agreement** means one or more Escrow Deposit Agreements between the City and the Escrow Agent with respect to the refunding of a series of the Refunded Bonds.

**Fair Market Value** means the price at which a willing buyer would purchase an investment from a willing seller in a bona fide, arm's-length transaction, except for specified investments as described in Treasury Regulation § 1.148-5(d)(6), including United States Treasury obligations, certificates of deposit, guaranteed investment contracts, and investments for yield restricted defeasance escrows. Fair Market Value is generally determined on the date on which a contract to purchase or sell an investment becomes binding, and, to the extent required by the applicable regulations under the Code, the term "investment" will include a hedge.

**Federal Tax Certificate** means one or more certificates executed by the Finance Director setting forth the requirements of the Code for maintaining the tax exemption of interest on a series of Tax-Exempt Bonds to be dated as of the date of closing for such Bonds.

**Finance Director** means the Finance Director of the City or the successor to such officer.

**Future Parity Bonds** mean any revenue bonds of the City issued after the date of issuance of the Bonds having a charge or lien upon the Revenue of the System for payment of the principal thereof and interest thereon equal in priority to the charge or lien upon the Revenue of the System for the payment of the principal of and interest on the Outstanding Parity Bonds and the Bonds.

**Government Obligations** mean those obligations now or hereafter defined as such in chapter 39.53 RCW constituting direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, as such chapter may be hereafter amended or restated.

**Letter of Representations** mean the Blanket Issuer Letter of Representations from the City to DTC, as amended from time to time.

**Maximum Annual Debt Service** means the maximum amount of Annual Debt Service that will become due in any fiscal year hereafter on the Parity Bonds then outstanding.

**MSRB** means the Municipal Securities Rulemaking Board or any successors to its functions.

**Net Revenue** means the Revenue of the System less the Costs of Maintenance and Operation.



**Official Statement** means one or more disclosure document(s) prepared and delivered in connection with the issuance of one or more series of Bonds.

**Outstanding Parity Bond Ordinances** mean the ordinances authorizing the issuance of the Outstanding Parity Bonds as described in the recitals to this ordinance.

**Outstanding Parity Bonds** mean the outstanding 2011 Bonds, 2012 Bonds, 2013 Bonds, and 2015 Bond.

**Outstanding Subordinate Lien Bonds** mean revenue bonds or other obligations of the City having a lien upon the Revenue of the System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds. The Outstanding Subordinate Lien Bonds include, as of the date of this ordinance: (i) Public Works Trust Fund (Water Main Replacement Project) issued July 25, 2002; (ii) Drinking Water State Revolving Fund (Water Pre Treatment Project) issued May 27, 2015; and (iii) Water Pollution Control Revolving Fund/Department of Ecology (Roeder Lift Station Project) issued June 1, 2018.

**Parity Bonds** mean the Outstanding Parity Bonds, the Bonds and any Future Parity Bonds.

**Parity Conditions** mean the requirements for the issuance of Future Parity Bonds set forth in the Outstanding Parity Bond Ordinances and in Section 17 of this ordinance.

**Permitted Investment** means any investment that is a legal investment for cities in the State.

**Principal and Interest Account** means, together, the “Cash (Restricted for Debt Payment)” accounts within the Water Fund and the Sewer Fund, used for the payment of the principal of and interest on the Outstanding Parity Bonds, the Bonds and any Future Parity Bonds.

**Project Fund** means the project or capital improvements fund or account created in the office of the Finance Director.

**Projects** mean those capital improvement projects relating to the System identified in the capital improvement program of the City, as such capital improvement program may be amended, updated, supplemented or replaced from time to time by the City.

**Record Date** means the close of business for the Bond Registrar that is 15 days preceding any interest and/or principal payment or redemption date.

**Refunded Bonds** mean all or a portion of the Refunding Candidates as designated by a Designated Representative for refunding pursuant to this ordinance.

**Refunding Account** means the account by that name established pursuant to Section 10 of this ordinance.



***Refunding Candidates*** mean the outstanding 2011 Bonds, 2012 Bonds, 2013 Bonds and 2015 Bond.

***Registered Owner*** means any person named as a registered owner of the Bonds in the Bond Register. So long as the Bonds of a series are held in book entry only form, DTC or its nominee shall be deemed to be the sole Registered Owner.

***Reserve Account*** means, together, the “Cash (Restricted for Debt Service Reserve)” accounts within the Water Fund and the Sewer Fund, used for the purpose of securing the payment of the principal of and interest on the Parity Bonds.

***Reserve Insurance*** means, in lieu of cash and investments, insurance equal to the Reserve Requirement for any Future Parity Bonds then outstanding for which such insurance is obtained, but no insurance may be used to satisfy the Reserve Requirement for Future Parity Bonds unless (i) the insurance policy is non-cancelable, and (ii) the insurer as of the time of issuance of such insurance is rated in one of the two highest rating categories (without regard to gradation) by both Moody’s Investors Service, Inc. and S&P Global Ratings.

*Following the full redemption, refunding or defeasance of all of the Outstanding Parity Bonds, the definition of “Reserve Insurance” shall be amended to read “means, in lieu of cash and investments, insurance equal to the Reserve Requirement for any Future Parity Bonds then outstanding for which such insurance is obtained, but no insurance may be used to satisfy the Reserve Requirement for Future Parity Bonds unless (i) the insurance policy is non-cancelable, and (ii) the insurer as of the time of issuance of such insurance is rated in one of the two highest rating categories (without regard to gradation) by either Moody’s Investors Service, Inc. or S&P Global Ratings.”*

***Reserve Requirement*** means, with respect to the Outstanding Parity Bonds and initially, the Bonds, an amount equal to the least of (a) 125% of Average Annual Debt Service, (b) Maximum Annual Debt Service or (c) 10% of the proceeds of the Parity Bonds then Outstanding. For calculating the Reserve Requirement for Variable Interest Rate Bonds, such Variable Interest Rate Bonds shall be assumed to bear interest at a fixed rate equal to the higher of (i) 6% per annum or (ii) (a) the highest variable rate borne during the preceding 24 months by any outstanding Variable Interest Rate Bonds or, (b) if no such Variable Interest Rate Bonds are outstanding at the time of calculation, the rate borne by other variable rate debt the interest rate for which is determined by reference to an index comparable to the index to be used to determine the interest rate on the Variable Interest Rate Bonds proposed to be issued.

*Following the full redemption, refunding or defeasance of all of the Outstanding Parity Bonds, the Reserve Requirement shall be amended to read “means with respect to the Bonds, the amount determined by the City, which may be zero, and with respect to any Future Parity Bonds, the amount set forth in the ordinance authorizing the Parity Bonds if such Parity Bonds are secured by the Reserve Account or another reserve fund or account.”*

***Revenue of the System or Revenue*** means all earnings, revenue and money received by the City from or on account of the operation of the System, except proceeds from the sale of

property of the System, but including income from investments of money in the Bond Fund or from any other investments of such earnings and revenue except the income from investments irrevocably pledged to the payment of revenue bonds of the System pursuant to a plan of refunding or retirement adopted by the City. Revenue of the System also shall include any federal or state reimbursements of operating expenses to the extent such expenses constitute Costs of Maintenance and Operation.

**Rule** means the Commission's Rule 15c2-12 under the Securities Exchange Act of 1934, as may be amended from time to time.

**Sale Document** means a Bond Purchase Contract or Certificate of Award, if any, executed by a Designated Representative in connection with the sale of a series of Bonds pursuant to this ordinance, which shall provide for the name, principal and interest payment dates and amounts, redemption/prepayment rights, and other terms to describe such Bonds as determined by a Designated Representative.

**Sinking Fund Account** means any account created in the Bond Fund to amortize the principal or make mandatory redemptions of Term Bonds.

**State** means the State of Washington.

**System** means the combined water supply and distribution system and sewerage collection and disposal system of the City as it now exists and as the same may be added to, improved and extended for as long as any Parity Bonds remain outstanding. The Council may, by ordinance, combine with and include as a part of the System any other utility owned and operated by the City.

**Taxable Bonds** mean any Bonds of a series determined to be issued on a taxable basis pursuant to this ordinance.

**Tax-Exempt Bonds** mean any Bonds of a series determined to be issued on a tax-exempt basis under the Code pursuant to this ordinance.

**Term Bonds** mean any Parity Bonds identified as such in the ordinance or resolution authorizing the issuance thereof, the payment of which is provided for by a requirement for mandatory deposits of money by the City into a Sinking Fund Account in the Bond Fund or for mandatory redemption of those Term Bonds.

**2011 Bonds** mean the outstanding Water and Sewer Revenue Bonds, 2011, of the City authorized by Ordinance No. 2011-08-041 and dated September 27, 2011.

**2012 Bonds** mean the outstanding Water and Sewer Revenue Refunding Bonds, 2012, of the City authorized by Ordinance No. 2012-02-006 and dated March 29, 2012.

**2013 Bonds** mean the outstanding Water and Sewer Revenue Bonds, 2013, of the City authorized by Ordinance No. 2013-08-059 and dated August 27, 2013.

**2015 Bond** means the outstanding Water and Sewer Revenue Refunding Bond, 2015, of the City authorized by Ordinance No. 2015-09-039 and dated November 10, 2015.

**Underwriter** means any underwriter for each series of Bonds, in the case of a negotiated sale, or initial purchaser or purchasers for each series of Bonds, in the case of a competitive sale, as selected by a Designated Representative pursuant to this ordinance.

**Variable Interest Rate Bonds** mean those Parity Bonds bearing interest at a variable rate.

Section 2.     Interpretation. In this ordinance, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before the date of this ordinance;

(b) Words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 3.     Compliance with Parity Conditions. The Council finds and determines as required by the provisions of the Outstanding Parity Bond Ordinances relating to the issuance of Future Parity Bonds as follows:

First: The Bonds are being issued for the purpose of providing funds to prepay or defease and refund prior to their maturity all or a portion of the Refunding Candidates and to finance capital improvements to the System.

Second: At the time of the passage and approval of this ordinance and at the time of the issuance and delivery of the Bonds, there is not nor will there be any deficiency in the Bond Fund or any account therein.

Third: This ordinance contains the provisions and covenants required to be included herein by the provisions of the Outstanding Parity Bond Ordinances relating to the issuance of Future Parity Bonds.



Fourth: The Council has been assured that prior to the issuance and delivery of a series of Bonds it will have on file a certificate demonstrating compliance with the Parity Conditions.

The Parity Conditions having been complied with or assured, the payments required herein to be made out of the Revenue of the System to pay and secure the payment of the principal of and interest on the Bonds shall constitute a lien and charge upon such Revenue of the System equal in rank to the lien and charge thereon of the payments to be made into the Bond Fund to pay and secure the payment of the principal of and interest on the Outstanding Parity Bonds.

Section 4. Findings and Determinations. The Council finds and determines that the Revenue of the System and benefits to be derived from the operation and maintenance of the System at the rates to be charged for water and sanitary sewage disposal service from the entire System will be more than sufficient to meet all Costs of Maintenance and Operation and the debt service requirements of the Outstanding Parity Bonds and the Outstanding Subordinate Lien Bonds and to permit the setting aside into the Principal and Interest Account of the Bond Fund out of the Revenue of the System amounts sufficient to pay the principal of and interest on the Bonds when due.

The Council further finds and determines that it has exercised due regard for the Costs of Maintenance and Operation (and the cost of operation and maintenance as contemplated by RCW 35.92.100) and for debt service requirements and that it has not obligated the City to set aside and pay into the Bond Fund a greater amount of the Revenue of the System than in its judgment will be available over and above such Costs of Maintenance and Operation (and such cost of operation and maintenance).

Section 5. Authorization and Description of the Bonds. For the purpose of prepaying or defeasing and refunding the Refunded Bonds, paying the costs of the Projects, making a deposit to the Reserve Account (if required), and paying costs of issuance of the Bonds, the City shall issue and sell one or more series of tax-exempt and/or taxable water and sewer revenue and refunding bonds in the principal amount of not to exceed \$64,000,000 (the "Bonds"). The Bonds authorized herein may be issued in one or more series and from time to time pursuant to the authorization set forth in this resolution subject to the conditions set forth in Section 20 hereof.

The Bonds shall be designated the "City of Bellingham, Washington, Water and Sewer Revenue and Refunding Bonds" with any series or other designation as determined by a Designated Representative. The Bonds of a series shall be dated as of their date of initial issuance and delivery to the applicable Underwriter; shall be fully registered as to both principal and interest; shall be in the denomination of \$5,000 each, or any integral multiple thereof, within a series and maturity; shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; shall bear interest from their date payable on the dates and commencing as provided in the applicable Sale Document; and shall be subject to optional and/or mandatory redemption and mature on the dates and in the principal amounts set forth in the applicable Sale Document, as approved and executed by a Designated Representative pursuant to Section 20 of this ordinance.

The Bonds shall be an obligation only of the Bond Fund and shall be payable and secured as provided herein. The Bonds do not constitute an indebtedness or general obligation of the City within the meaning of the constitutional provisions and limitations of the State.

Section 6.      Registration, Exchange and Payments.

(a)      *Bond Registrar/Bond Register.* The City hereby specifies and adopts the system of registration approved by the Washington State Finance Committee from time to time through the appointment of a state fiscal agent. The City shall cause a bond register to be maintained by the Bond Registrar. So long as any Bonds of a series remain outstanding, the Bond Registrar shall make all necessary provisions to permit the exchange or registration or transfer of Bonds at its designated office. The Bond Registrar may be removed at any time at the option of the Finance Director upon prior notice to the Bond Registrar and a successor Bond Registrar appointed by the Finance Director. No resignation or removal of the Bond Registrar shall be effective until a successor shall have been appointed and until the successor Bond Registrar shall have accepted the duties of the Bond Registrar hereunder. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance. The Bond Registrar shall be responsible for its representations contained in the certificate of authentication of the Bonds.

(b)      *Registered Ownership.* The City and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond of a series as the absolute owner thereof for all purposes (except as otherwise provided in this ordinance or in the Continuing Disclosure Certificate), and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described below, but such Bond may be transferred as provided herein. All such payments made as described below shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

(c)      *DTC Acceptance/Letters of Representations.* The Bonds of a series initially shall be held in fully immobilized form by DTC acting as depository. The City has executed and delivered to DTC the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees (or any successor depository) with respect to the Bonds in respect of the accuracy of any records maintained by DTC (or any successor depository) or any DTC participant, the payment by DTC (or any successor depository) or any DTC participant of any amount in respect of the principal of or interest on Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the City to the Bond Registrar or to DTC (or any successor depository)), or any consent given or other action taken by DTC (or any successor depository) as the Registered Owner. For so long as any Bonds are held by a depository, DTC or its successor depository or its nominee shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC (or any successor depository) or its nominee and shall not mean the owners of any beneficial interest in such Bonds.



(d) *Use of Depository.*

(1) The Bonds of a series shall be registered initially in the name of “Cede & Co.”, as nominee of DTC, with one Bond of each series maturing on each of the maturity dates for the Bonds of such series in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (B) to any substitute depository appointed by the Finance Director pursuant to subsection (2) below or such substitute depository’s successor; or (C) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Finance Director to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Finance Director may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request on behalf of the Finance Director, issue a single new Bond for each maturity of that series then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Finance Director.

(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Finance Director determines that it is in the best interest of the Beneficial Owners of the Bonds that such owners be able to obtain physical bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held by a depository. The Finance Director shall deliver a written request to the Bond Registrar, together with a supply of physical Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt by the Bond Registrar of all then outstanding Bonds of a series together with a written request on behalf of the Finance Director to the Bond Registrar, new Bonds of such series shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner’s duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond(s) (or Bonds at the option of the new Registered Owner) of the same date, series, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or



persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, series, maturity, and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to register the transfer of or to exchange any Bond during the 15 days preceding any principal payment or redemption date.

(f) *Bond Registrar's Ownership of Bonds.* The Bond Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Bond Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as a member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners or Beneficial Owners of Bonds.

(g) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are held by a depository, payments of principal thereof and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds are no longer held by a depository, interest on the Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the Record Date, or upon the written request of a Registered Owner of more than \$1,000,000 of Bonds (received by the Bond Registrar at least by the Record Date), such payment shall be made by the Bond Registrar by wire transfer to the account within the United States designated by the Registered Owner. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the designated office of the Bond Registrar.

If any Bond shall be duly presented for payment and funds have not been duly provided by the City on such applicable date, then interest shall continue to accrue thereafter on the unpaid principal thereof at the rate stated on such Bonds until it is paid.

#### Section 7. Redemption and Purchase of Bonds.

(a) *Redemption of Bonds.* The Bonds of each series shall be subject to mandatory redemption to the extent, if any, as set forth in the applicable Sale Document and as approved by a Designated Representative pursuant to Section 20. The Bonds of each series shall be subject to optional redemption and/or prepayment on the dates, at the prices and under the terms set forth in the applicable Sale Document approved by a Designated Representative pursuant to Section 20.

(b) *Purchase of Bonds.* The City reserves the right to accept an offer to purchase any of the Bonds at any time at a price deemed reasonable by a Designated Representative.

(c) *Selection of Bonds for Redemption.* If the Bonds are held in book-entry only form, the selection of particular Bonds within a series and maturity to be redeemed shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds are no longer held by a depository, the selection of such Bonds to be redeemed and the surrender and reissuance

thereof, as applicable, shall be made as provided in the following provisions of this subsection (c) or as otherwise provided in the applicable Sale Document. If the City redeems at any one time fewer than all of the Taxable Bonds of series having the same maturity date, the particular Taxable Bonds or portions of Taxable Bonds of such series and maturity to be redeemed shall be selected on a pro rata pass-through distribution of principal basis. In the event that only a portion of the principal sum of a Taxable Bond is redeemed, upon surrender of such Taxable Bond at the designated office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum thereof, at the option of the Registered Owner, a Taxable Bond or Bonds of like series, maturity and interest rate in any of the denominations herein authorized. If the City redeems at any one time fewer than all of the Tax-Exempt Bonds having the same maturity date within a series, the particular Tax-Exempt Bonds or portions of Tax-Exempt Bonds of such series and maturity to be redeemed shall be selected by lot (or in such manner determined by the Bond Registrar) in increments of \$5,000. In the case of a Tax-Exempt Bond of a denomination greater than \$5,000, the City and the Bond Registrar shall treat each Tax-Exempt Bond of such series as representing such number of separate Tax-Exempt Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Tax-Exempt Bonds of such series by \$5,000. In the event that only a portion of the principal sum of a Tax-Exempt Bond is redeemed, upon surrender of such Tax-Exempt Bond at the principal office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum thereof, at the option of the Registered Owner, a Tax-Exempt Bond or Bonds of like maturity, series, and interest rate in any of the denominations herein authorized. To the extent the City optionally redeems or purchases for retirement any Term Bond, any remaining mandatory sinking fund payment or mandatory prior redemption requirements for such Term Bond shall be reduced on a pro rata basis.

(d) *Notice of Redemption or Prepayment.*

(1) Official Notice. For so long as the Bonds of a series are held by a depository, notice of redemption (which notice may be conditional) shall be given in accordance with the operational arrangements of DTC as then in effect, and neither the City nor the Bond Registrar will provide any notice of redemption to any Beneficial Owners. Thereafter (if the Bonds are no longer held in uncertificated form), notice of redemption shall be given in the manner hereinafter provided. Unless waived by any owner of Bonds to be redeemed, official notice of any such redemption shall be given by the Bond Registrar on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 20 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 Bond Registrar.

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

- (A) the redemption date,
- (B) the redemption price,



(C) if fewer than all outstanding Bonds are to be redeemed, the identification by maturity (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,

(D) any conditions to redemption,

(E) that (unless such notice is conditional) 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

(F) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the designated office of the Bond Registrar.

On or prior to any redemption date, unless any condition to such redemption has not been satisfied or waived or notice of such redemption has been rescinded, the City shall deposit with the Bond 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. The City retains the right to rescind any redemption notice and the related optional redemption of Bonds by giving notice of rescission to the affected registered owners at any time on or prior to the scheduled redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

(2) Effect of Notice; Bonds Due. If an unconditional notice of redemption has been given, or if the conditions set forth in a conditional notice of redemption have been satisfied or waived, the Bonds of such series or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date 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 Bond 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. All Bonds which have been redeemed shall be canceled by the Bond Registrar and shall not be reissued.

(3) Additional Notice. In addition to the foregoing notice, further notice shall be given by the City 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. 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 series and maturity date of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed. Each further notice of redemption may be sent at least 20 days before the redemption date to each party entitled to receive notice pursuant to the Continuing Disclosure Certificate and with such additional information as the City shall deem appropriate, but such mailings shall not be a condition precedent to the redemption of such Bonds.



(4) Amendment of Notice Provisions. The foregoing notice provisions of this Section 7, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes in order to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

Section 8. Form of the Bonds. The Bonds of each series shall be in substantially the following form set forth in Exhibit A, which is incorporated herein by this reference, with such changes thereto as may be approved by a Designated Representative.

Section 9. Execution of the Bonds. The Bonds of each series shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Finance Director of the City and the seal of the City shall be impressed, imprinted or otherwise reproduced thereon.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form set forth in Exhibit A, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond may be signed and attested on behalf of the City by such persons who at the date of the actual execution of such Bond, are 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 10. Refunding Plan; Application of Bond Proceeds.

(a) *Project Fund and Reserve Account.* Net proceeds of any series of Bonds received by the City allocable to the financing of the Projects shall be deposited in the Project Fund which is hereby authorized to be created, and used to pay those costs and payment of costs of issuance and sale of such series of Bonds (unless paid by the Escrow Agent pursuant to (b) below) as set forth in the closing memorandum for such series of Bonds. Principal proceeds in an amount necessary to meet the Reserve Requirement shall be deposited to the Reserve Account.

(b) *Refunding Plan.* For the purpose of realizing an aggregate debt service savings and benefiting the ratepayers of the City, the Council proposes to refund and defease the Refunded Bonds as set forth herein. The Refunded Bonds shall include those Refunding Candidates designated by a Designated Representative when the Bonds are sold pursuant to the Sale Document. Net proceeds of any series of Bonds allocable to the refunding of the Refunded Bonds (less any required deposit to the Reserve Account to be funded with Bond proceeds) shall be deposited with the Escrow Agent pursuant to the Escrow Agreement to be used immediately upon receipt thereof to defease the Refunded Bonds as authorized by the ordinances authoring the

issuance of the Refunded Bonds and to pay costs of issuance of such Bonds as set forth in the closing memorandum for such series of Bonds.

A portion of the proceeds deposited with the Escrow Agent shall be used to defease the Refunded Bonds and discharge the obligations thereon on the applicable call date by the purchase of certain Government Obligations (which obligations so purchased, are herein called "Acquired Obligations"), bearing such interest and maturing as to principal and interest in such amounts and at such times which, together with any necessary beginning cash balance, will provide for the payment of:

(1) interest on the Refunded Bonds due and payable on and prior to the respective first call dates for the Refunded Bonds; and

(2) the redemption prices of the Refunded Bonds on the respective first call dates for the Refunded Bonds.

Such Acquired Obligations shall be purchased at a yield not greater than the yield permitted by the Code and regulations relating to acquired obligations in connection with refunding bond issues. Each Designated Representative is authorized to select a bidding agent, if any, (and authorizes the Designated Representative to appoint any successor or replacement bidding agent) for the purchase of the Acquired Obligations to be deposited with the Escrow Agent.

(c) *Escrow Agent/Escrow Agreement.* The City hereby appoints U.S. Bank National Association as the Escrow Agent for the Refunded Bonds (the "Escrow Agent"). A beginning cash balance, if any, and the Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Bonds remaining after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Bonds.

In order to carry out the purposes of this section, each Designated Representative is authorized and directed to execute and deliver to the Escrow Agent, one or more Escrow Agreements.

(d) *Call for Redemption of Refunded Bonds.* The City hereby irrevocably sets aside sufficient funds out of the purchase of Acquired Obligations from proceeds of the Bonds to make the payments described above. The City hereby irrevocably calls the Refunded Bonds for redemption on their first call dates in accordance with the provisions of the authorizing ordinances authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be irrevocable after the issuance of such series of Bonds and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notices of the redemption of the Refunded Bonds in accordance with the applicable provisions of their authorizing ordinances. The costs of publication of such notices shall be an expense of the City.



The Escrow Agent is hereby authorized and directed to pay to the Finance Director, or, at the direction of the Finance Director, to the paying agent for the Refunded Bonds, sums sufficient to pay, when due, the payments specified in this section. All such sums shall be paid from the moneys and Acquired Obligations deposited with the Escrow Agent, and the income therefrom and proceeds thereof. All such sums so paid to said Finance Director shall be credited to the Refunding Account. All moneys and Acquired Obligations deposited with the Escrow Agent and any income therefrom shall be held, invested (but only at the direction of the Finance Director) and applied in accordance with the provisions of this ordinance and with the laws of the State for the benefit of the City and owners of the Refunded Bonds.

The City will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds shall be paid when due.

Section 11. Priority of Payments from Revenue of the System.

(a) *Priority and Application of Revenue of the System.* The Revenue of the System shall be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation of the System;

Second, to make all payments required to be made into the Principal and Interest Account in the Bond Fund to pay the interest on any Parity Bonds;

Third, to make all payments required to be made into the Principal and Interest Account in the Bond Fund to pay the maturing principal of any Parity Bonds;

Fourth, to make all payments required to be made into any Sinking Fund Account for the payment of the principal or mandatory redemption of any Term Bonds;

Fifth, to make all payments required to be made into the Reserve Account created to secure the payment of the Parity Bonds, *following the full redemption, refunding or defeasance of all of the Outstanding Parity Bonds, into any other reserve account created to secure the payment of the principal of and interest on Parity Bonds, an amount necessary to provide for or maintain the Reserve Requirement applicable to such Parity Bonds*, and to make all payments required to be made pursuant to a reimbursement agreement in connection with Reserve Insurance, except that if there is not sufficient money to make all payments under reimbursement agreements the payments will be made on a pro rata basis;

Sixth, to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or revenue warrants of the City, including the Outstanding Subordinate Lien Bonds, having a lien upon the Revenue of the System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds;



Seventh, to make all payments required to be made into the Capital Reserve Accounts; and

Eighth, to retire by redemption or purchase in the open market any outstanding System revenue bonds or System revenue warrants of the City, to make necessary additions, betterments and improvements to and extensions of the System, or for any other lawful City purposes.

(b) *Coverage Stabilization Account.* The Finance Director is hereby authorized to create a Coverage Stabilization Account. The City hereby determines that the maintenance of a Coverage Stabilization Account will moderate fluctuations in Net Revenues and help to alleviate the need for short-term rate adjustments. Money in the Coverage Stabilization Account will be transferred as determined from time to time by the City. The City may make payments into the Coverage Stabilization Account from Revenue of the System at any time. Money in the Coverage Stabilization Account may be withdrawn at any time and used for the purpose for which the Revenue of the System may be used. Amounts withdrawn from the Coverage Stabilization Account shall increase Revenue of the System for the period in which they are withdrawn, and amounts deposited in the Coverage Stabilization Account shall reduce Revenue of the System for the period during which they are deposited. Credits to or from the Coverage Stabilization Account that occur within 90 days after the end of a fiscal year may be treated as occurring within such fiscal year.

Section 12. Bond Fund. The Bond Fund has previously been created in the office of the Finance Director and within such Fund the Principal and Interest Account, the Reserve Account and any Sinking Fund Account(s) are included.

(a) *Principal and Interest Account.* The Principal and Interest Account in the Bond Fund shall be drawn upon for the sole purpose of paying the principal of and premium, if any, and interest on all Parity Bonds as the same shall become due.

As long as the Bonds remain outstanding, the City obligates and binds itself to set aside and pay into the Principal and Interest Account out of the Revenue of the System the following fixed amounts necessary, together with other money then on hand and available in the Principal and Interest Account, to pay the principal of and the interest on the Bonds as the same respectively become due and payable. Such payments shall be made into the Principal and Interest Account when and in the amounts needed to pay when due interest on each interest payment date on the Bonds and the principal of or mandatory sinking fund requirement for the Bonds on each principal payment date.

(b) *Reserve Account.* The Reserve Account has been created in the Bond Fund as a common reserve fund and, except as provided below, shall be used solely for the purpose of securing the payment of the principal of and the interest on all Parity Bonds secured by the Reserve Account.

The payment of the principal of and interest on the Bonds shall initially be secured by the Reserve Account. *Following the full redemption, refunding or defeasance of all of the Outstanding Parity Bonds, the City may, in its sole discretion, (i) reduce the Reserve Requirement for the Bonds*

*to zero, and from and after such time, the Bonds shall no longer be secured by the Reserve Account, and (ii) create separate reserve funds and/or accounts and establish separate Reserve Requirements, if any, to secure the payment of the principal of and interest on Future Parity Bonds. Terms related to any such reserve funds and/or accounts shall be provided for in the Parity Bond Ordinance authorizing the issuance of such Future Parity Bonds.*

(1) *Funding for the Bonds.* The City covenants that on or prior to the issuance of each series of Bonds it shall have on deposit in the Reserve Account the Reserve Requirement for such Bonds. If required, a portion of the proceeds of each series of Bonds shall be deposited to the Reserve Account to satisfy the Reserve Requirement.

(2) *Funding for Future Parity Bonds.* The City covenants and agrees that, in the event it issues any Future Parity Bonds, it will comply with Section 17(d) of this ordinance.

Investments in the Reserve Account shall be valued at least semiannually and immediately upon a withdrawal at the fair market value of such investments. The rating of an insurer providing Reserve Insurance must satisfy the rating requirement in the definition of “Reserve Insurance.” In the event the rating of an insurer providing Reserve Insurance falls below the foregoing rating requirements, the City shall be under no obligation to obtain replacement Reserve Insurance or make deposits into the Reserve Account as a result of such downgrade.

(3) *Maintenance of Reserve Account.* The City further covenants and agrees that when the required deposits have been made into the Reserve Account, it will at all times maintain required amounts therein. The City may on each principal payment date recalculate the Reserve Requirement with respect to the Parity Bonds then secured by the Reserve Account (and shall be permitted to recalculate the Reserve Requirement on the issuance date of any Future Parity Bonds).

Whenever there is a sufficient amount in the Bond Fund, including the accounts therein, to pay the principal of, premium, if any, and interest on all outstanding Parity Bonds then secured by the Reserve Account, the money in the Reserve Account may be used to pay such principal, premium, if any, and interest.

(4) *Withdrawals from Reserve Account.* Money in the Reserve Account may be withdrawn to pay the principal of and premium, if any, and interest on any outstanding Parity Bonds then secured by the Reserve Account, as long as the money or Reserve Insurance, as the case may be, left remaining on deposit in the Reserve Account is at least equal to the Reserve Requirement for the Parity Bonds secured by the Reserve Account then outstanding.

(5) *Use of Reserve Account for Refunding Parity Bonds.* In the event that any Parity Bonds are refunded, the money in the Reserve Account may be used to retire such Parity Bonds or may be transferred to any reserve account which may be created to secure the payment of any bonds issued to refund such Parity Bonds, as long as the money left remaining in the Reserve Account is at least equal, together with Reserve Insurance, to the applicable Reserve Requirement.



(6) *Use of Reserve Account for Payment of Debt Service.* In the event the money in the Bond Fund over and above the amount therein set aside and credited to the Reserve Account is insufficient to meet maturing installments of either interest on or principal of and interest on the outstanding bonds payable out of the Bond Fund, such deficiency shall be made up from the Reserve Account by the withdrawal of money or proceeds of Reserve Insurance therefrom, as the case may be. Any deficiency created in the Reserve Account by reason of any such withdrawal or claim against Reserve Insurance shall then be made up out of the Revenue of the System (or out of other funds of the City on hand and legally available therefor), after making necessary provision for the payments required to be made by subparagraphs First through Fourth, inclusive, of Section 11 of this ordinance.

(c) *Sinking Fund Account.* In the event that a portion of a series of Bonds is subject to mandatory sinking fund redemption as set forth in the applicable Sale Document, the Finance Director is hereby authorized to create Sinking Fund Accounts, as necessary, in the Bond Fund to amortize the principal or make mandatory redemptions of such Term Bonds.

(d) *Investment of Money in the Bond Fund.* Money in the Bond Fund may be invested in Permitted Investments, but only to the extent that the same are acquired at Fair Market Value. Investments of money in the Bond Fund shall mature on or prior to the date on which such money shall be needed for required interest or principal payments. Investments of money in the Reserve Account shall mature not later than the last maturity of any then-outstanding Parity Bonds. Investments of money in any Sinking Fund Account shall mature on or prior to the date when such money shall be needed to pay or make a mandatory redemption of the Term Bonds. All interest earned and income or profits derived by virtue of investments of money in the Bond Fund shall be deposited in the Principal and Interest Account in the Bond Fund and used to meet any of the required deposits therein, except that earnings on amounts in the Reserve Account shall be retained therein if and to the extent necessary to maintain the Reserve Account at the Reserve Requirement. Notwithstanding the provisions for the deposit of earnings, any earnings which are subject to a federal tax or rebate requirement may be withdrawn from the Bond Fund for deposit into a separate fund or account for that purpose.

Section 13. Capital Reserve Accounts. Money in the Capital Reserve Accounts shall be used for the following purposes: (i) to make up any deficiency in the Bond Fund or any accounts therein; (ii) to pay the cost of repairs to and renewals and replacements of the System; and (iii) to pay extraordinary maintenance and operation expenses.

The City covenants and agrees for as long as any of the Parity Bonds remain outstanding that it will budget for and deposit into the Capital Reserve Accounts in each fiscal year out of the Revenue of the System (or out of other funds of the City on hand and legally available therefor) an amount, together with the money already on deposit therein, which is sufficient in the judgment of the Council to provide for reasonably anticipated repairs to and renewals and replacements of the System and other contingencies.

Section 14. Lien of the Bonds. The amounts pledged to be paid out of the Revenue of the System into the Bond Fund to pay the principal of and interest on the Bonds, including amounts to be deposited in the Reserve Account, are declared to be a prior lien and charge upon such



Revenue of the System superior to all other charges of any kind or nature except the Costs of Maintenance and Operation of the System, and equal in rank to the charges upon such Revenue of the System to pay and secure the payment of the principal of and interest on the Outstanding Parity Bonds and any Future Parity Bonds.

Section 15. Covenants. The City covenants and agrees with the owners of the Bonds for as long as the Bonds remain outstanding as follows:

(a) *Maintenance and Operations.* The City shall at all times maintain, preserve and keep the properties of the System in good repair, working order and condition, and will make all necessary and proper additions, betterments, renewals and repairs thereto, and improvements, replacements and extensions thereof, and will at all times operate or cause the properties of the System and the business in connection therewith to be operated in an efficient manner and at a reasonable cost.

(b) *Establishment and Collection of Rates and Charges.* The City shall establish, maintain and collect rates and charges for all services and facilities provided and all commodities sold or supplied by the System which shall be fair and nondiscriminatory, and shall adjust such rates and charges from time to time so that:

(1) The Revenue of the System will at all times be sufficient (i) to pay all Costs of Maintenance and Operation on a current basis, (ii) to pay when due all amounts which the City is obligated to pay into the Bond Fund and the accounts therein, and (iii) to pay all taxes, assessments or other governmental charges lawfully imposed on the System or the revenue therefrom or payments in lieu thereof and any and all other amounts that the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract; and

(2) The Net Revenue in each fiscal year will be at least equal to the Coverage Requirement.

(c) *Sale or Disposition of the System.* The City will not sell or otherwise dispose of the System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment into the Bond Fund of cash or Government Obligations sufficient together with interest to be earned thereon to pay the principal of and interest on all Parity Bonds then outstanding.

The City will not sell, lease, mortgage or in any manner encumber or otherwise dispose of any part of the System, including all additions and improvements thereto and extensions thereof at any time made, that are used, useful or material in the operation of the System, unless provision is made for the replacement thereof or for payment into the Bond Fund of the greatest of the following:

(1) An amount that will be in the same proportion to the net amount of Parity Bonds then outstanding (defined as the total amount of the Parity Bonds less the amount of cash and investments in the Bond Fund and accounts therein) that the Revenue of the System from the

portion of the System sold or disposed of for the preceding year bears to the total Revenue of the System for such period; or

(2) An amount that will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the Net Revenue from the portion of the System sold or disposed of for the preceding year bears to the total Net Revenue for such period; or

(3) An amount that will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the depreciated cost value of the facilities sold or disposed of bears to the depreciated cost value of the entire System immediately prior to such sale or disposition.

Notwithstanding any other provision of this subsection, the City in its discretion may sell or otherwise dispose of any of the works, plant, properties or facilities of the System or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation, without making any deposit into the Bond Fund. In no event shall such proceeds be treated as Revenue of the System for purposes of this ordinance.

(d) *Liens Upon the System.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the System or the Revenue of the System, or any part thereof, prior or superior to the lien thereon for the payment of the Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for labor, materials or supplies that, if unpaid, might become a lien or charge upon the Revenue of the System, or any part thereof, prior to or superior to the lien of the Parity Bonds, or that might impair the security of the Parity Bonds.

(e) *Books and Accounts.* The City shall keep proper books, records and accounts with respect to the operations, income and expenditures of the System in accordance with proper accounting procedures and any applicable rules and regulations prescribed by the State. The City shall prepare balance sheets and annual financial and operating statements within 120 days of the close of each fiscal year (as of which date such statements may be unaudited) showing in reasonable detail the financial condition of the System as of the close of the previous year, and the income and expenses for such year, including the amounts paid into the Bond Fund and into any and all special funds or accounts created pursuant to or described in this ordinance, the status of all funds and accounts as of the end of such year, and the amounts expended for maintenance, renewals, replacements, and capital additions to the System. Such statements shall be sent to the owner of any Parity Bond upon written request therefor being made to the City.

(f) *No Free Service.* The City will not furnish or supply or permit the furnishing or supplying of any commodity, service or facility in connection with the operation of the System free of charge to any person, firm or corporation public or private, other than the City or Whatcom County, or to aid the poor or infirm and for fire-fighting purposes, so long as any Parity Bonds are outstanding.



(g) *Fire and Extended Coverage Insurance.* The City will at all times carry fire and extended coverage and such other forms of insurance with responsible insurers and with policies payable to the City on such of the buildings, equipment, works, plants, facilities and properties of the System as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or will implement and maintain a self-insurance or an insurance pool program with reserves adequate, in the judgment of the Council, to protect the System and the owners of the Parity Bonds against loss.

(h) *Public Liability and Property Damage Insurance.* The City will at all times keep or arrange to keep in full force and effect such policies of public liability and property damage insurance with responsible insurers and with policies payable to the City against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or will implement and maintain a self-insurance or an insurance pool program with reserves adequate, in the judgment of the Council, to protect the System and the owners of the Parity Bonds against loss.

(i) *Collection of Delinquent Accounts.* The City will, on at least an annual basis, determine all accounts that are delinquent and will take all necessary action to enforce payment of such accounts against those property owners whose accounts are delinquent.

Section 16. Tax Covenants. The City will take all actions necessary to assure the exclusion of interest on the Tax-Exempt Bonds from the gross income of the owners of the Tax-Exempt Bonds to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Tax-Exempt Bonds, including but not limited to the following:

(a) *Private Activity Bond Limitation.* The City will assure that the proceeds of the Tax-Exempt Bonds are not so used as to cause the Tax-Exempt Bonds to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(b) *Limitations on Disposition of Project.* The City will not sell or otherwise transfer or dispose of (i) any personal property components of the projects financed or refinanced with proceeds of Tax-Exempt Bonds other than in the ordinary course of an established government program under Treasury Regulation Section 1.141-2(d)(4) or (ii) any real property components of the projects financed or refinanced with proceeds of Tax-Exempt Bonds, unless it has received an opinion of nationally recognized bond counsel to the effect that such disposition will not adversely affect the treatment of interest on the Tax-Exempt Bonds as excludable from gross income for federal income tax purposes.

(c) *Federal Guarantee Prohibition.* The City will not take any action or permit to suffer any action to be taken if the result of such action would be to cause any of the Tax-Exempt Bonds to be “federally guaranteed” within the meaning of Section 149(b) of the Code.

(d) *Rebate Requirement.* The City will take any and all actions necessary to assure compliance with Section 148(f) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such section is applicable to the Tax-Exempt Bonds.



(e) *No Arbitrage.* The City will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Tax-Exempt Bonds which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Tax-Exempt Bonds would have caused the Tax-Exempt Bonds to be “arbitrage bonds” within the meaning of Section 148 of the Code.

(f) *Registration Covenant.* The City will maintain a system for recording the ownership of each Tax-Exempt Bond that complies with the provisions of Section 149 of the Code until all Tax-Exempt Bonds have been surrendered and canceled.

(g) *Record Retention.* The City will retain its records of all accounting and monitoring it carries out with respect to the Tax-Exempt Bonds for at least three years after the Tax-Exempt Bonds mature or are redeemed (whichever is earlier); however, if the Tax-Exempt Bonds are redeemed and refunded, the City will retain its records of accounting and monitoring at least three years after the earlier of the maturity or redemption of the obligations that refunded the Tax-Exempt Bonds.

(h) *Compliance with Federal Tax Certificate.* The City will comply with the provisions of the Federal Tax Certificate with respect to the Tax-Exempt Bonds, which are incorporated herein as if fully set forth herein. The covenants of this section will survive payment in full or defeasance of the Tax-Exempt Bonds.

Section 17. Future Parity Bonds The City covenants and agrees that the City will not issue any bonds or other obligations having a greater or equal priority of lien upon the Revenue of the System and the money in the Bond Fund to pay and secure the payment of the principal of and interest on such bonds or other obligations than the lien created on such Revenue of the System and money to pay and secure the payment of the principal of and interest on the Parity Bonds, except that it reserves the right,

First, to issue Future Parity Bonds for the purpose of providing funds to acquire, construct or replace any equipment, facilities, additions, betterments or other capital improvements to the System or for any other purpose for which the City is authorized by law to issue revenue bonds, or

Second, to issue Future Parity Bonds for the purpose of refunding at or prior to their maturity any outstanding Parity Bonds, and to pledge and bind itself to make payments into the Bond Fund out of the Revenue of the System which will be sufficient to pay and secure the payment of the principal of and interest on such Future Parity Bonds, which payments shall rank equally with the payments required by this ordinance to be made into the Bond Fund and the accounts therein to pay and secure the payment of principal of and interest on the Bonds, upon compliance with the following conditions:

(a) *No Bond Fund Deficiency.* At the time of the issuance of such Future Parity Bonds there shall be no deficiency in the Bond Fund or any accounts therein.

(b) *Payable Out of Bond Fund.* Each ordinance providing for the issuance of such Future Parity Bonds shall provide for the payment of the principal thereof and premium, if any, and interest thereon out of the Bond Fund.

(c) *Use of Bond Fund Money in Refunding.* All money held in the Bond Fund and the accounts therein for the purpose of paying or securing the payment of the principal of and interest on Parity Bonds being refunded shall either be used to pay the principal of and interest on such bonds or be maintained in the Bond Fund and accounts therein to pay and secure the payment of such refunding Future Parity Bonds.

(d) *Reserve Requirement.* With respect to Future Parity Bonds secured by the Reserve Account or a separate reserve fund or account, each ordinance providing for the issuance of such Future Parity Bonds shall provide for the deposit into the Reserve Account or other reserve account of (i) an amount of Future Parity Bond proceeds that, taking into account amounts on deposit in the Reserve Account including any Reserve Insurance, will satisfy the Reserve Requirement upon issuance of the Future Parity Bonds, (ii) Reserve Insurance that, taking into account amounts on deposit in the Reserve Account including any other Reserve Insurance, will satisfy the Reserve Requirement upon issuance of the Future Parity Bonds, or (iii) to the extent that the Reserve Requirement is not fully funded at the time of issuance of those Future Parity Bonds, from Net Revenue in approximately equal annual installments so that the balance in the Reserve Account equals the Reserve Requirement within five years from the date of issuance of those Future Parity Bonds.

(e) *Rate Covenant.* The City will covenant in each ordinance providing for the issuance of such Future Parity Bonds to establish, maintain and collect rates and charges for all services and facilities provided by the System so that the Net Revenue will be sufficient to meet the Coverage Requirement.

(f) *Parity Certificate.* Prior to the delivery of such Future Parity Bonds the City shall have on file:

(i) A certificate of the Finance Director showing that the Net Revenue as shown in the City's audited financial statements for any 12-month period selected by the City out of the 24-month period next preceding the date of issuance of Future Parity Bonds would be sufficient to meet the Coverage Requirement commencing with the first full fiscal year following the date on which interest on such Future Parity Bonds will not be paid from the proceeds of such Future Parity Bonds; or

(ii) a certificate from an independent licensed professional engineer experienced in the design, construction and operation of municipal utilities, or from a certified public accountant (which certificate may not be dated more than 90 days prior to the date of delivery of such Future Parity Bonds), showing that in his professional opinion the Net Revenue, determined and adjusted as hereinafter provided for each fiscal year after the issuance of such Future Parity Bonds (the "Adjusted Net Revenue"), will equal at least the Coverage Requirement.

The Adjusted Net Revenue shall be the Net Revenue for a period of any 12 consecutive months out of the 24 months immediately preceding the month of delivery of such proposed Future Parity Bonds as adjusted by such engineer or accountant to take into consideration changes in Net Revenue estimated to occur under one or more of the following conditions for each year after such delivery for so long as any Parity Bonds, including the Future Parity Bonds proposed to be issued, shall be outstanding:

(1) any increase or decrease in Net Revenue that would result if any change in rates and charges effective on or approved by the Council prior to the date of such certificate and subsequent to the beginning of such 12 month period had been in force during the full 12 month period;

(2) any increase or decrease in Net Revenue estimated by such engineer or accountant to result from any additions, betterments or improvements to or extensions of any facilities of the System which (i) became fully operational during such 12 month period, (ii) were under construction at the time of such certificate, or (iii) will be acquired, constructed or installed from the proceeds of sale of the Future Parity Bonds proposed to be issued;

(3) the additional Net Revenue which would have been received if any customers added to the System during such 12 month period were customers for the entire period;

(4) the additional Net Revenue estimated to be received from any person, firm, association, or private or municipal corporation under any executed water or sanitary sewage service contract, which Net Revenue is not included in any of the sources of Net Revenue previously described in this subsection (f)(ii); and

(5) any increase or decrease in Net Revenue as a result of any actual or reasonably anticipated changes in the Costs of Maintenance and Operation subsequent to the 12 month period.

Such engineer or accountant shall base his certification upon, and his certificate shall have attached thereto, financial statements of the System audited by the State (unless such an audit is not available for a 12 month period within the preceding 24 months) and certified by the Finance Director, showing income and expenses for the period upon which the same is based.

The certificate referenced herein shall be conclusive and the only evidence required to show compliance with the provisions and requirements of this subsection (f).

(g) *No Parity Certificate for Certain Refunding Future Parity Bonds.* In the event that any Future Parity Bonds provided for in this section are issued for the purpose of refunding at or prior to maturity any or all of the then outstanding Parity Bonds, and the issuance of such refunding Future Parity Bonds does not require a greater amount to be paid out of the Revenue of the System for principal and interest over the life of such refunding Future Parity Bonds than would be required to be paid out of such Revenue of the System for principal and interest over the life of the Parity Bonds being refunded, then the certificate required in subsection (f) of this section need not



be obtained to permit such refunding Future Parity Bonds to be issued on a parity with any Parity Bonds then outstanding.

(h) *Inapplicability to Certain Future Parity Bonds.* Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds of the City for the payment of which money is not otherwise available. Such Future Parity Bonds may be Variable Interest Rate Bonds.

Section 18. Subordinate Lien Obligations. Nothing contained herein shall prevent the City from issuing revenue bonds or other obligations with a charge or lien upon the Revenue of the System subordinate to the payments required to be made therefrom into the Bond Fund and the accounts therein.

Section 19. Defeasance In the event that the City, to effect the payment, retirement or redemption of any Bond, sets aside in the Principal and Interest Account of the Bond Fund or in another special account, cash or noncallable Government Obligations, or any combination of cash and/or noncallable Government Obligations, in amounts and maturities which, together with the known earned income therefrom, are sufficient to redeem or pay and retire such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such cash and/or noncallable Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Principal and Interest Account of the Bond Fund for the payment of the principal of and interest on such Bond. The owner of a Bond so provided for shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal, premium, if any, and interest from the Principal and Interest Account of the Bond Fund or such special account, and such Bond shall be deemed to be not outstanding under this ordinance.

In the event that the refunding plan provides that the Bonds being refunded or the refunding bonds to be issued be secured by money and/or government obligations pending the prior redemption of the portion of the Bonds being refunded and if such refunding plan also provides that certain money and/or Government Obligations are pledged irrevocably for the prior redemption of those Bonds included in the refunding plan, then only the debt service which is not defeased and the refunding bonds, the payment of which is not so secured by the refunding plan, shall be included in any computation of the Coverage Requirement for the issuance of Future Parity Bonds and the annual computation of coverage for determining compliance with the rate covenant.

The City shall give written notice of defeasance to the owners of all Bonds to each party entitled to receive notice in accordance with Section 22.

Section 20. Sale of the Bonds

(a) *Sale.* The Council has determined that it would be in the best interest of the City to delegate to the Designated Representatives, for a limited time, the authority to authorize the Bonds to be issued in one or more series, to designate each series of Bonds as Tax-Exempt Bonds or Taxable Bonds, to select the Refunded Bonds from the Refunding Candidates, and to approve the method of sale, final interest rates, maturity dates, redemption terms and principal maturities for

each series of Bonds. The Designated Representatives are each hereby authorized to approve the issuance, from time to time, on a single date or on multiple dates to be determined to be in the best interest of the City, of one or more series of Bonds and to approve a competitive bond sale or a negotiated bond sale for each series of Bonds, as set forth below.

(b) *Negotiated Bond Sale.* If a Designated Representative determines that a series of the Bonds are to be sold by negotiated public sale, a Designated Representative shall solicit proposals from one or more qualified underwriting firms and shall select one or more Underwriters that submit the proposal(s) that is in the best interest of the City. Such series of Bonds shall be sold to such Underwriter(s) pursuant to the terms of a Bond Purchase Contract.

(c) *Competitive Sale.* If a Designated Representative determines that one or more series of the Bonds are to be sold at a competitive public sale, a Designated Representative shall: (1) establish the date of the public sale; (2) establish the criteria by which the successful bidder will be determined; (3) request that a good faith deposit in an amount not less than one percent of the principal amount of the offering accompany each bid; (4) cause notice of the public sale to be given; and (5) provide for such other matters pertaining to the public sale as he or she deems necessary or desirable. Such Bonds shall be sold to the Underwriter pursuant to the terms of a Certificate of Award.

(d) *Sale Parameters.* Subject to the terms and conditions set forth in this Section 20, each Designated Representative is hereby authorized to approve the method of sale, to designate each series of Bonds as Tax-Exempt Bonds or Taxable Bonds, to select the Refunded Bonds from the Refunding Candidates, and to approve the final interest rates, aggregate principal amount, principal maturities, and redemption rights for each series of Bonds in the manner provided herein so long as:

(1) the aggregate principal (face) amount of all Bonds issued pursuant to this ordinance does not exceed \$64,000,000,

(2) the final maturity date for any series of Bonds issued under this ordinance is no later than December 1, 2044,

(3) any series of Bonds sold for the purpose of refunding all or a portion of the Refunded Bonds are sold for a price that results in a minimum aggregate net present value debt service savings over the Refunded Bonds to be refunded of at least 5.00%,

(4) the true interest cost for the Bonds of a series (in the aggregate) does not exceed 4.00%, and

(5) the aggregate purchase price for the Bonds of a series shall not be less than 98% of the aggregate stated principal amount of the Bonds.

Subject to the terms and conditions set forth in this section, each Designated Representative is hereby authorized to execute one or more Sale Document on behalf of the City. Following the execution of a Sale Document, a Designated Representative shall provide a report to the Council

describing the final terms of the Bonds approved pursuant to the authority delegated in this section. The authority granted to the Designated Representatives by this Section 20 to execute any Sale Document shall expire one year (365 days) after the effective date of this ordinance. If a Sale Document for the Bonds has not been executed by such date, the authorization for the issuance of such Bonds shall be rescinded, and such Bonds shall not be issued nor their sale approved unless such Bonds shall have been re-authorized by ordinance of the Council. The ordinance re-authorizing the issuance and sale of such Bonds may be in the form of a new ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance approving a Sale Document or establishing terms and conditions for the authority delegated under this Section 20.

(e) *Delivery of Bonds; Documentation.* The proper officials of the City, including the Finance Director, the Mayor and the City Clerk, are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Bonds to the applicable Underwriter and further to execute all closing certificates and documents required to effect the closing and delivery of the Bonds in accordance with the terms of the Sale Document. Such documents may include, but are not limited to, documents related to a municipal bond insurance policy delivered by an insurer to insure the payment when due of the principal of and interest on all or a portion of the Bonds as provided therein, if such insurance is determined by a Designated Representative to be in the best interest of the City.

Section 21. Preliminary and Final Official Statements. Each Designated Representative is hereby authorized to deem final the preliminary Official Statement(s) relating to a series of Bonds for the purposes of the Rule. Each Designated Representative is further authorized to approve for purposes of the Rule, on behalf of the City, the final Official Statement(s) relating to the issuance and sale of a series of Bonds and the distribution of the final Official Statement pursuant thereto with such changes, if any, as may be deemed to be appropriate.

Section 22. Undertaking to Provide Ongoing Disclosure. The City covenants to execute and deliver at the time of issuance of a series of Bonds a Continuing Disclosure Certificate. Each Designated Representative is hereby authorized to execute and deliver a Continuing Disclosure Certificate upon the issuance, delivery and sale of a series of Bonds with such terms and provisions as such officer shall deem appropriate and in the best interests of the City.

Section 23. Amendments

(a) *Amendments without Bondowners' Consent.* The Council from time to time and at any time may pass an ordinance or ordinances supplemental hereto, which ordinance or ordinances thereafter shall become a part of this ordinance, for any one or more of the following purposes:

(1) To add to the covenants and agreements of the City contained in this ordinance other covenants and agreements thereafter to be observed which shall not adversely affect the interests of the owners of the Bonds, or to surrender any right or power herein reserved to or conferred upon the City.



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

Any such supplemental ordinance of the City may be passed without the consent of the owners of the Bonds at any time outstanding.

(b) *Amendments with Bondowners' Consent.* With the consent of the owners of the Bonds then outstanding, the Council may pass 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.

Section 24. Lost, Stolen or Destroyed Bonds. In case the Bonds shall be lost, stolen or destroyed, the Bond Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City and the Bond Registrar in connection therewith and upon filing with the City evidence satisfactory to the City that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City and/or the Bond Registrar with indemnity satisfactory to the City and the Bond Registrar.

Section 25. Severability; Ratification. 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 of 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 of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds. All acts taken pursuant to the authority granted in this ordinance but prior to its effective date are hereby ratified and confirmed.

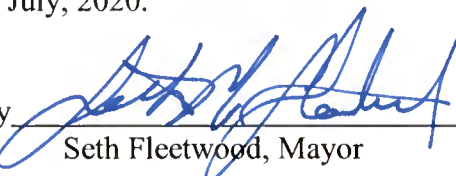
Section 26. Corrections by Clerk. Upon approval of the City Attorney and Bond Counsel and without further action of the Council, the City Clerk is hereby authorized to make necessary corrections to this ordinance, including but not limited to the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; ordinance numbering and section/subsection numbering; and other similar necessary corrections

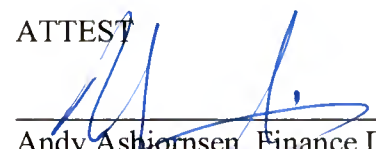
Section 27. Effective Date This ordinance shall be effective 15 days after its final passage.

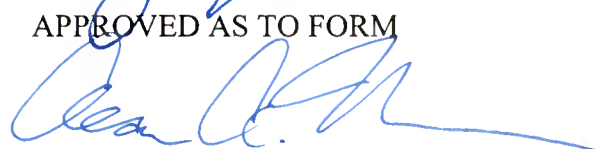
PASSED by the City Council of the City of Bellingham, Washington, at a regular meeting thereof held this 20th of July, 2020.

By   
Gene Knutson, Council President

APPROVED by me this 20th of July, 2020.

By   
Seth Fleetwood, Mayor

ATTEST  
  
Andy Ashjornsen, Finance Director

APPROVED AS TO FORM  
  
Office of City Attorney

## CERTIFICATION

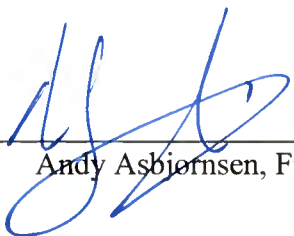
I, the undersigned, Finance Director of the City of Bellingham, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 2020-07-019 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular time and meeting place thereof on July 20, 2020, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect after its passage; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 20th day of July, 2020.

CITY OF BELLINGHAM, WASHINGTON



---

Andy Asbjornsen, Finance Director



EXHIBIT A

UNITED STATES OF AMERICA

NO. \_\_\_\_\_

\$ \_\_\_\_\_

STATE OF WASHINGTON

CITY OF BELLINGHAM

WATER AND SEWER REVENUE AND REFUNDING BOND, 20\_\_ [(TAXABLE)/(TAX-EXEMPT)]

INTEREST RATE: \_\_\_\_\_ %

MATURITY DATE: \_\_\_\_\_, 20[\_\_\_]

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: \_\_\_\_\_

The City of Bellingham, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay interest thereon from \_\_\_\_\_, 20\_\_, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on \_\_\_\_\_ 1, 20\_\_, and semiannually thereafter on the first days of each succeeding \_\_\_\_\_ and \_\_\_\_\_. Both principal of and interest on this bond are payable in lawful money of the United States of America. The fiscal agent of the State of Washington has been appointed by the City as the authenticating agent, paying agent and registrar for the bonds of this issue (the "Bond Registrar"). For so long as the bonds of this issue are held in fully immobilized form, payments of principal thereof and interest thereon shall be made as provided in accordance with the operational arrangements of The Depository Trust Company ("DTC") referred to in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to DTC.

Both principal of and interest on this bond shall be payable in accordance with Ordinance No. 2020-07-019 duly passed by the City Council on July 20, 2020 (the "Bond Ordinance"). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Registration Certificate hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is issued pursuant to the Bond Ordinance to provide a portion of the funds necessary to defease and refund certain outstanding water and sewer revenue bonds of the City, [to pay costs of capital improvements to the System][, to make a deposit to the Reserve Account,] and to pay costs of issuance.

[The City may redeem this bond as provided in the Official Statement.]

This bond is payable solely from the special funds of the City defined as the "Bond Fund" in the Bond Ordinance. The City has irrevocably obligated and bound itself to pay into the Bond Fund out of the Revenue of the System or from such other moneys as may be provided therefor certain amounts necessary to pay and secure the payment of the principal and interest on this bond. The bond is not a general obligation of the City.

The bond is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and duly adopted ordinances of the City. The City hereby covenants and agrees with the owner of this bond that it will keep and perform all the covenants of this bond and of the Bond Ordinance to be by it kept and performed, and reference is hereby made to the Bond Ordinance for a complete statement of such covenants. The City does hereby pledge and bind itself to set aside from Revenue of the System and to pay into the Bond Fund and the Reserve Account the various amounts required by the Bond Ordinance to be paid into and maintained in such Fund and account, all within the times provided by the Bond Ordinance. To the extent more particularly provided by the Bond Ordinance, the amounts so pledged to be paid from the Revenue of the System into the Bond Fund and the accounts therein shall be a lien and charge thereon equal in rank to the lien and charge upon said revenue of the Outstanding Parity Bonds and the amounts required to pay and secure the payment of revenue bonds of the City hereafter issued on a parity with the bonds of this issue and superior to all other liens and charges of any kind or nature except the Costs of Maintenance and Operation of the System.

The pledge of Revenue of the System and other obligations of the City under the Bond Ordinance may be discharged at or prior to the maturity or prepayment of the bond upon the making of provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that the issuance of this bond does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Bellingham, Washington has caused this bond to be executed by the manual or facsimile signatures of the Mayor and the Finance Director and the seal of the City imprinted, impressed or otherwise reproduced hereon as of this \_\_\_\_ day of \_\_\_\_\_, 2020.

[SEAL]

CITY OF BELLINGHAM, WASHINGTON

By /s/ manual or facsimile  
Seth Fleetwood, Mayor

ATTEST:

/s/ manual or facsimile  
Andy Asbjornsen, Finance Director

CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Water and Sewer Revenue Refunding Bonds, 20\_\_ [(Taxable)/(Tax-Exempt)], of the City of Bellingham, Washington, dated \_\_\_\_\_, 20\_\_\_\_.

WASHINGTON STATE FISCAL AGENT,  
as Bond Registrar

By \_\_\_\_\_