

CITY OF FIFE, WASHINGTON

ORDINANCE NO. 1772

AN ORDINANCE OF THE CITY OF FIFE, WASHINGTON, RELATING TO THE WATERWORKS UTILITY OF THE CITY; PROVIDING FOR THE ISSUANCE OF WATER AND SEWER REVENUE REFUNDING BONDS, 2012, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$6,000,000 TO OBTAIN PART OF THE FUNDS NECESSARY TO ADVANCE REFUND AND DEFEASE THE CITY OF FIFE, WASHINGTON, WATER AND SEWER REVENUE BONDS, 2004 MATURING ON OR AFTER APRIL 1, 2015, AND TO PAY INCIDENTAL COSTS AND COSTS RELATED TO THE SALE AND ISSUANCE OF SUCH BONDS; PROVIDING FOR THE DATE, DENOMINATIONS, FORM, TERMS, REGISTRATION PROVISIONS, MATURITIES, INTEREST RATES, REDEMPTION PROVISIONS AND COVENANTS OF SUCH BONDS; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SUCH BONDS; AND PROVIDING FOR THE NEGOTIATED SALE AND DELIVERY OF SUCH BONDS TO D.A. DAVIDSON & CO.

WHEREAS, pursuant to Ordinance No. 1534-04, the City issued and sold the 2004 Bonds, of which \$6,015,000 in aggregate principal amount are currently outstanding; and

WHEREAS, pursuant to chapter 39.53 RCW, the City is authorized to issue and sell, without an election, revenue bonds of the City to refund all or a portion of the outstanding 2004 Bonds; and

WHEREAS, pursuant to Ordinance No. 1534-04, the City reserved the right to defease all or a portion of the outstanding 2004 Bonds pursuant to a refunding plan; and

WHEREAS, the advance refunding and defeasance of the 2004 Bonds maturing on or after April 1, 2015 (the "Refunded 2004 Bonds") will provide a debt service savings to the City; and

WHEREAS, Ordinance No. 1534-04 permits the issuance of parity water and sewer revenue bonds for various purposes, including, but not limited to, refunding all or a portion of the outstanding 2004 Bonds; and

WHEREAS, the City has satisfied the conditions precedent to the issuance of parity water and sewer revenue bonds for the purpose of refunding the Refunded 2004 Bonds as set forth in Ordinance No. 1534-04; and

WHEREAS, the City Council deems it to be in the best interest of the City that the City negotiate the sale of such water and sewer revenue refunding bonds to the Purchaser upon the terms and conditions set forth in the Purchase Agreement; now, therefore,

THE CITY COUNCIL OF THE CITY OF FIFE, WASHINGTON
DO ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this Ordinance, including the recitals hereto, the following words shall have the following meanings:

“Annual Debt Service” means, in any year, that year’s total of principal and interest requirements for the outstanding Bonds and Parity Bonds (except the principal maturity of any Bonds and Parity Bonds issued as term bonds), plus any mandatory sinking fund or mandatory bond redemption requirement for such Bonds and Parity Bonds for that year, less all capitalized interest payable that year from the proceeds of such Bonds and Parity Bonds.

“Authorized Officers” means the City Manager and the Finance Director/Treasurer.

“Average Annual Debt Service” means, in any year, the sum of the remaining Annual Debt Service of the outstanding Bonds and Parity Bonds, divided by the number of years such Bonds and Parity Bonds are scheduled to remain outstanding.

“Beneficial Owner” means, with respect to any Bond, the person named on the records of the Custodian as having the right, without a physical certificate evidencing such right, to transfer, to hypothecate and to receive the payment of the principal of, premium, if any, and interest on such Bond as the same becomes due and payable.

“Bond Fund” means the “Parity Revenue Bond Fund” created pursuant to Ordinance No. 1515-03.

“Bond Register” means the registration books of the Registrar on which are maintained the names and addresses of the Owners of the Bonds.

“Bonds” means the City of Fife, Washington, Water and Sewer Revenue Refunding Bonds, 2012, authorized to be issued by this Ordinance.

“Book-Entry Termination Date” means the fifth business day following the date of receipt by the Registrar of the City’s request to terminate the book-entry system of registering the beneficial ownership of the Bonds.

“City” means the City of Fife, Washington, a code city duly organized under the laws of the State.

“City Council” means the City Council of the City.

“Closing” means the time on the Date of Issue when the Bonds are delivered to the Purchaser in exchange for payment in full therefor, as established in the Purchase Agreement.

“Code” means the Internal Revenue Code of 1986, as amended, and any applicable regulations promulgated thereunder.

“Coverage Requirement” shall mean in any calendar year 1.25 times the Maximum Annual Debt Service, except that during the installment payment period of any ULID Assessments, “Coverage Requirement” shall mean 1.10 times the actual Annual Debt Service.

“Custodian” means (a) The Depository Trust Company, New York, New York, or (b) any successor thereto engaged by the City to operate a book-entry system for recording, through electronic or manual means, the beneficial ownership of the Bonds, in which system no physical certificates are issued to the Beneficial Owners of the Bonds, but in which a limited number of physical certificates are issued to and registered in the name of the Custodian or its nominee, and delivered to the Custodian; provided, that such book-entry system operated by the Custodian may include the use of subsystems of recording the beneficial ownership of Bonds that are operated by parties other than the Custodian and the use of a nominee for the Custodian; and the term “Custodian,” as used herein, includes any party operating any such subsystem.

“Date of Issue” means the date on which the Bonds are issued and delivered to the Purchaser in return for payment of the purchase price therefor.

“Escrow Agent” means U.S. Bank National Association, acting in its fiduciary capacity as Escrow Agent pursuant to the Escrow Agreement.

“Escrow Agreement” means that certain Escrow Agreement, to be dated as of the Date of Issue, by and between the City and the Escrow Agent, in substantially the same form as the draft dated April 4, 2012, a copy of which is on file with the City Clerk and is incorporated herein by this reference.

“Escrow Obligations” means those certain Government Obligations necessary to accomplish the Refunding Plan, as set forth in the Purchase Agreement.

“Escrow Payments” means (a) all of the interest coming due on the Refunded 2004 Bonds called for redemption on October 1, 2012, from the Date of Issue to and excluding such redemption date, and the redemption price equal to 100% of the principal amount of such Refunded 2004 Bonds due on October 1, 2012; and (b) all of the interest coming due on the Refunded 2004 Bonds called for redemption on April 1, 2014, from the Date of Issue to and excluding such redemption date, and the redemption price equal to 100% of the principal amount of such Refunded 2004 Bonds due on April 1, 2014.

“Future Parity Bonds” means any and all revenue bonds or other revenue obligations issued by the City issued after the Date of Issue pursuant to the provisions of Section 15 of this Ordinance and that have a lien upon the Gross Revenue of the Waterworks Utility to pay and secure the payment of the principal thereof and interest thereon equal to the lien created on the Gross Revenue of the Waterworks Utility to pay and secure the payment of the principal of and interest on the Bonds and any outstanding Parity Bonds.

“Government Obligations” means “government obligations,” as defined in chapter 39.53 RCW, as now in existence or hereafter amended.

“Gross Revenue of the Waterworks Utility” means all the earnings and revenue received by the Waterworks Utility from any source whatsoever, including general facility charges, earnings on funds in the Bond Fund and amounts withdrawn from the Rate Stabilization Account and deposited into the Utility Fund of the City pursuant to Section 11(b) of this Ordinance, except ULID Assessments, general *ad valorem* taxes, grants from the state or federal governments, proceeds from the sale of the City property, bond proceeds, capital payments from unrelated third parties, deposits to the Rate Stabilization Account, gifts, developer extension payments, and earnings in refunding or defeasance accounts (unless such earnings are paid into the Bond Fund).

“Independent Utility Consultant” means either (a) an independent registered professional engineer experienced in the design, construction and operation of municipal utilities and licensed to practice in the State, or (b) an independent certified public accountant.

“Initial Cash” means initial cash deposit necessary to accomplish the Refunding Plan, as set forth in the Purchase Agreement.

“IRS” means the federal Internal Revenue Service.

“Letter of Representations” means the letter of representations from the City and the Registrar to the Custodian pertaining to the payment of the Bonds and the “book-entry” system for evidencing the beneficial ownership of the Bonds prior to the Book-Entry Termination Date.

“Maximum Annual Debt Service” means, at the time of calculation, the maximum amount of Annual Debt Service that shall become due in any future year on any outstanding Bonds and Parity Bonds.

“Moody’s” means Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns.

“MSRB” means the Municipal Securities Rulemaking Board.

“Net Revenue” means the Gross Revenue of the Waterworks Utility less the Operating and Maintenance Expenses.

“Operating and Maintenance Expenses” means all reasonable expenses incurred by the City in causing the Waterworks Utility to be operated and maintained in good repair, working order and condition and all payments made to another agency for treatment or disposal of sewage or acquisition of water, but excluding depreciation and any City-imposed utility taxes or payments in lieu of taxes.

“Ordinance” means this Ordinance No. 1772 authorizing the issuance and sale of the Bonds.

“Owner” means the person named as the registered owner of a Bond on the Bond Register.

“Parity Bonds” means, collectively, (a) the 2004 Bonds maturing on April 1, 2013 and April 1, 2014, and (b) any Future Parity Bonds.

“Principal and Interest Account” means the account of that name created in the Bond Fund pursuant to Ordinance No. 1515-03 for the payment of the principal of and interest on the Bonds and all Parity Bonds.

“Purchase Agreement” means the Purchase Agreement for the Bonds, to be dated the date of sale, by and between the Purchaser and the City, in substantially the same form as the draft dated April 4, 2012, a copy of which is on file with the City Clerk and is incorporated herein by this reference.

“Purchaser” means D.A. Davidson & Co., the purchaser of the Bonds.

“Rate Stabilization Account” means the account of that name created in the Utility Fund of the City pursuant to Ordinance No. 1534-04.

“Refunded 2004 Bonds” means the 2004 Bonds maturing on or after April 1, 2015.

“Refunding Plan” means the plan to advance refund and defease the Refunded 2004 Bonds and to pay incidental costs and costs related to the sale and issuance (as defined in RCW 39.46.070) of the Bonds, as described in Section 21 of this Ordinance and the Escrow Agreement.

“Registrar” means the fiscal agency of the State located in New York, New York (as of the Date of Issue, The Bank of New York Mellon), which fiscal agency is appointed from time to time by the State Finance Committee pursuant to chapter 43.80 RCW.

“Reserve Account” means the account of that name created in the Bond Fund pursuant to Ordinance No. 1515-03.

“Reserve Requirement” means the least of (a) 1.25 times the Average Annual Debt Service of all outstanding Bonds and Parity Bonds; (b) Maximum Annual Debt Service of all outstanding Bonds and Parity Bonds; or (c) 10% of the proceeds of all outstanding Bonds and Parity Bonds.

“Rule” means SEC Rule 15c2-12.

“SEC” means the United States Securities and Exchange Commission.

“Standard & Poor’s” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business, a corporation organized and existing under the laws of the State of New York, and its successors and assigns.

“State” means the State of Washington.

“Surety Bond” means any letter of credit, insurance policy, surety bond or other equivalent credit facility or any combination thereof issued to the City to satisfy all or part of the

amount required to be maintained in the Reserve Account, the proceeds of which shall be used only to prevent deficiencies in the payment of the principal of or interest on the Bonds and any Parity Bonds resulting from insufficient amounts being on deposit in the Principal and Interest Account to make such payments of principal and interest as the same become due at maturity or on any mandatory redemption date. Such Surety Bond shall be provided by an institution or entity whose credit facility would not adversely affect the rating of the Bonds by Standard & Poor's and Moody's, if the Bonds were so rated, and if not so rated, rating shall be secured from one of such entities or any other entity whose ratings are generally relied upon by investors in municipal bonds as necessary to demonstrate that substitution of a Surety Bond for any portion of the Reserve Account requirement will not adversely affect the security of the Bonds; provided that, so long as the Bonds remain outstanding, any Surety Bonds shall meet the additional requirements set forth in Section 10 hereof.

"Term Bonds" means any Bonds identified in the Purchase Agreement as "term bonds" for which a portion of the principal thereof is paid by means of mandatory redemptions in the years and principal amounts set forth therein.

"2004 Bonds" means the City of Fife, Washington, Water and Sewer Revenue Bonds, 2004, currently outstanding in the aggregate principal amount of \$6,015,000.

"ULID" means a utility local improvement district of the City.

"ULID Assessments" means all ULID assessments and installments thereof, plus interest and penalties thereon, levied in any ULID created to secure the payment of any Bonds and Parity Bonds and pledged to be paid into the Bond Fund.

"Utility Fund" means, collectively, the "Water Utility Fund" and the "Sewer Utility Fund" heretofore created by the City.

"Waterworks Utility" means the existing waterworks utility of the City, which is comprised of the combined water supply and distribution system and sanitary sewage disposal system of the City, together with all additions thereto and betterments thereto and extensions thereof at any time made, including any storm drainage system made a part thereof.

"Verification" means a written report from a nationally recognized firm of certified public accountants verifying the mathematical accuracy of computations of the yield on the Bonds, the Refunded 2004 Bonds and the Escrow Obligations, and the computations showing that the Initial Cash and the maturing principal of and interest on the Escrow Obligations will provide sufficient money (assuming that all the principal of and the interest on the Escrow Obligations is paid on the due dates thereof) to make the Escrow Payments, when due.

Section 2. Finding, Purpose, Authorization and Description of Bonds. The City Council hereby finds that undertaking the Refunding Plan will be in the best interest of the City because it will effect a debt service savings to the City. To that end, the issuance by the City of the Bonds for the purpose of obtaining part of the funds necessary to undertake the Refunding Plan is hereby authorized.

The Bonds shall be designated as the "City of Fife, Washington, Water and Sewer Revenue Refunding Bonds, 2012," shall be dated the Date of Issue, shall be issued in fully registered form as to both principal and interest, shall be in the denomination of \$5,000 each or any integral multiple thereof within a single maturity, and shall be numbered separately in such manner and with any additional designation as the Registrar may deem necessary for purpose of identification. The Bonds shall be issued in an aggregate principal amount not to exceed \$6,000,000, shall bear interest at the rates per annum (computed on the basis of a 360-day year of twelve 30-day months), and be payable in the amounts and on the dates all as shall be determined pursuant to Section 18 hereof.

The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

On the Date of Issue, all Bonds maturing in the same maturity year shall be issued in the form of a single certificate, which certificate shall be registered in the name of the Custodian or its nominee, and delivered to the Custodian. The Custodian shall hold each such Bond certificate in fully immobilized form for the benefit of the Beneficial Owners pursuant to the Letter of Representations until the earliest to occur of (a) the date of maturity of the Bonds evidenced by such certificate, at which time the Custodian shall surrender such certificate to the Registrar for payment of the principal of and interest on such Bonds coming due on such date, and the cancellation thereof; (b) the Book-Entry Termination Date; or (c) the date the City determines to utilize a new Custodian for the Bonds, at which time the old Custodian shall (provided the City is not then in default of any payment then due on the outstanding Bonds) surrender the immobilized certificates to the Registrar for transfer to the new Custodian and cancellation as herein provided.

For so long as any outstanding Bonds are registered in the name of the Custodian or its nominee and held by the Custodian in fully immobilized form as described in this Section 2, the rights of the Beneficial Owners shall be evidenced solely by an electronic and/or manual entry made from time to time on the records established and maintained by the Custodian in accordance with the Letter of Representations, and no certificates evidencing such Bonds shall be issued and registered in the name of any Beneficial Owner or such Beneficial Owner's nominee.

The City may terminate the "book-entry" system of registering ownership of the Bonds at any time (provided the City is not then in default of any payment then due on the outstanding Bonds) by delivering to the Registrar: (1) a written request that it issue and deliver Bond certificates to each Beneficial Owner or such Beneficial Owner's nominee on the Book-Entry Termination Date; (2) a list identifying the Beneficial Owners as to both name and address; and (3) a supply of Bond certificates, if necessary for such purpose. Upon surrender to the Registrar of the immobilized certificates evidencing all of the then outstanding Bonds, the Registrar shall issue and deliver new certificates to each Beneficial Owner or such Beneficial Owner's duly appointed agent, naming such Beneficial Owner or such Beneficial Owner's nominee as the Owner thereof. Such certificates may be in any integral multiple of \$5,000 within a single maturity. Following such issuance, the Owners of such Bonds may transfer and exchange such Bonds in accordance with Section 8 hereof.

Neither the City nor the Registrar shall have at any time any responsibility or liability to any Beneficial Owner of Bonds or to any other person for any error, omission, action or failure to act on the part of the Custodian with respect to payment, when due, to the Beneficial Owners of the principal, premium, if any, and interest on the Bonds, proper recording of beneficial ownership of Bonds, proper transfers of such beneficial ownership, or any notices to Beneficial Owners or any other matter pertaining to the Bonds.

Section 3. Place, Manner and Medium of Payment. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Prior to the Book-Entry Termination Date, the principal of and interest on the Bonds shall be paid by the Registrar to the Custodian as the Owner thereof, for the benefit of the Beneficial Owners thereof, in accordance with the Letter of Representations.

From and after the Book-Entry Termination Date, interest on the Bonds shall be paid by check or draft mailed by the Registrar on the date such interest is due, to the Owners, at the addresses for such Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date. From and after the Book-Entry Termination Date, principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the Owners upon maturity or prior redemption at the principal corporate trust office of the Registrar.

The Bonds shall be payable solely out of the Bond Fund and shall be a valid claim of the Owners thereof only as against the Bond Fund. The Bonds shall not be general obligations of the City.

Section 4. Redemption and Purchase of Bonds. The Authorized Officers may designate certain maturities of the Bonds as being subject to redemption at the City's option prior to their respective maturities or may approve the designation of certain maturities of the Bonds as Term Bonds.

Any Bond in the principal amount of greater than \$5,000 may be partially redeemed in any integral multiple of \$5,000. Prior to the Book-Entry Termination Date, Bonds shall be partially redeemed in accordance with the Letter of Representations. From and after the Book-Entry Termination Date, in the event of a partial redemption of a Bond, upon surrender of such Bond at the principal corporate trust office of the Registrar, a new Bond or Bonds (at the option of the Owner) of the same maturity and interest rate and in the aggregate principal amount remaining unredeemed shall be authenticated and delivered to the Owner, without charge to the Owner therefor, in any denomination authorized by this Ordinance and selected by the Owner.

If fewer than all of the outstanding Bonds within a maturity are to be redeemed prior to maturity, Bonds shall be selected for redemption randomly within a maturity in such manner as the Registrar shall determine. Notwithstanding the foregoing, prior to the Book-Entry Termination Date, Bonds shall be selected for redemption in accordance with the Letter of Representations.

Prior to the Book-Entry Termination Date, the Registrar shall give, or cause to be given, notice of a call for redemption of any Bonds to the Custodian, as the Owner thereof, for the benefit of the Beneficial Owners thereof, in accordance with the Letter of Representations. From

and after the Book-Entry Termination Date, and unless waived by the Owner of any Bond to be redeemed, notice of any such redemption shall be given by or on behalf of the City not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Owner of each Bond to be redeemed at the address appearing on the Bond Register on the day the notice is mailed. The requirements of this section shall be deemed to be complied with when notice is mailed as herein provided, whether or not it is actually received by the Owner.

In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected Owners at any time prior to the scheduled optional 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.

If such notice to the Owners shall have been given and not rescinded, and the City shall have set aside sufficient money for the payment of all Bonds called for redemption on the date fixed for redemption, the Bonds so called shall cease to accrue interest after such redemption date, and all such Bonds shall be deemed not to be outstanding hereunder for any purpose, except that the Owners thereof shall be entitled to receive payment of the redemption price and interest accrued on the principal of the Bonds to the redemption date from the money set aside for such purpose.

The City also reserves the right to purchase any or all of the Bonds in the open market or otherwise from any willing seller at any time and at any price.

All Bonds redeemed or purchased by the City shall be surrendered to the Registrar for cancellation.

Section 5. Form of Bonds. The Bonds shall be printed or lithographed on good bond paper in a form consistent with this Ordinance and Washington law.

Section 6. Execution of Bonds. The Bonds shall be executed on behalf of the City by the facsimile or manual signatures of the Mayor of the City and the City Clerk and shall have the seal of the City impressed or a facsimile thereof imprinted thereon.

In the event any officer who shall have signed or whose facsimile signatures appear on any of the Bonds shall cease to be such officer of the City before said Bonds shall have been authenticated or delivered by the Registrar or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and, upon such authentication, delivery and issuance, shall be as binding upon the City as though said person had not ceased to be such officer. Any Bond may be signed and attested on behalf of the City by such persons who, at the actual date of execution of such Bond shall be the proper officer of the City, although at the original date of such Bond such persons were not such officers of the City.

Section 7. Authentication and Delivery of Bonds by Registrar. The Registrar is authorized and directed, on behalf of the City, to authenticate and deliver Bonds initially issued or transferred or exchanged in accordance with the provisions of such Bonds and this Ordinance.

Only such Bonds as shall bear thereon a "Certificate of Authentication" manually executed by an authorized signatory of the 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.

The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bonds.

Section 8. Registration, Transfer and Exchange. The City covenants that, until all Bonds shall have been surrendered and cancelled, it will cause the Registrar to maintain a system of recording the ownership of each Bond that complies with the provisions of the Code. To that end, the Registrar shall keep, or cause to be kept, the Bond Register at its principal corporate trust office.

The City and the Registrar, in its discretion, may deem and treat the Owner of each Bond as the absolute owner thereof for all purposes, and neither the City nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 3 hereof, but such registration may be transferred as herein provided. All such payments made as described in Section 3 hereof shall be valid and effectual to satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

The registered ownership of any Bond may be transferred. Prior to the Book-Entry Termination Date, the beneficial ownership of the Bonds may only be transferred on the records established and maintained by the Custodian. On and after the Book-Entry Termination Date, no transfer of any Bond shall be valid unless it is surrendered at the principal corporate trust office of the Registrar, with the assignment form appearing on such Bond duly executed by, or accompanied by a written instrument of transfer in form satisfactory to the Registrar duly executed by, the Owner or such Owner's duly authorized agent, in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Owner or transferee therefor (other than any governmental fees or taxes payable on account of such transfer), a new Bond or Bonds (at the option of the new Owner), naming as Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, of the same maturity and interest rate, for the same aggregate principal amount, and in any authorized denomination selected by the new Owners, in exchange for such surrendered and cancelled Bond.

From and after the Book-Entry Termination Date, any Bond may be surrendered at the principal corporate trust office of the Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same maturity and interest rate, in any authorized denomination as selected by the Owner. The Registrar shall not be obligated to transfer or exchange any Bond during the fifteen days preceding any principal or interest payment or redemption date.

The Registrar may become the Owner of any Bond with the same rights it would have if it were not the 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 rights of the Owners of the Bonds.

Section 9. Mutilated, Lost, Stolen or Destroyed Bonds. If any Bond becomes mutilated, lost, stolen or destroyed, the Registrar may authenticate and deliver a new Bond of the same interest rate and maturity and of like tenor and effect in substitution therefor, all in accordance with applicable law. If such mutilated, lost, stolen or destroyed Bond has matured, the City may, at its option, pay the same without the surrender thereof. However, no such substitution or payment shall be made unless and until the applicant shall furnish (a) evidence satisfactory to the Registrar of the destruction or loss of the original Bond and of the ownership thereof, and (b) such additional security, indemnity or evidence as may be required by or on behalf of the City. No substitute Bond shall be furnished unless the applicant shall reimburse the City and the Registrar for their respective expenses in the furnishing thereof. Any such substitute Bond so furnished shall be equally and proportionately entitled to the security of this Ordinance with all other Bonds issued hereunder.

Section 10. Bond Fund—Required Payments. The Bond Fund has heretofore been established for the purpose of paying and securing the payment of the principal of, premium, if any, and interest on the Bonds and any Parity Bonds. The Bond Fund shall consist of two accounts—the Principal and Interest Account and the Reserve Account—each of which has heretofore been created and established within the Bond Fund. Each account shall be held separate and apart from the other.

So long as any Bonds and/or Parity Bonds are outstanding against the Bond Fund, the City hereby obligates and binds itself to set aside and pay into the Principal and Interest Account all ULID Assessments and out of the Net Revenue, in addition to the amount to be paid therein for any outstanding Parity Bonds, the following fixed amounts without regard to any fixed proportion necessary to pay the principal of and interest on the Bonds as the same respectively become due and payable; such payments shall be made into the Principal and Interest Account on or before the date 20 days prior to each interest payment date:

(a) Commencing in September 2012, and in each September and March thereafter for as long as any of the Bonds are outstanding and unpaid, the amount necessary, together with other money on deposit therein and available therefor, to pay the interest coming due on the Bonds on the next succeeding interest payment date therefor; and

(b) Commencing in March 2013, and in each March thereafter for as long as any of the Bonds are outstanding and unpaid, the amount necessary, together with other money on deposit therein and available therefor, to pay principal of, and any mandatory sinking fund installments on, the Bonds coming due on the next April 1.

The Reserve Account was heretofore established in the Bond Fund for the purposes of securing the payment of the Bonds and any Parity Bonds. On the Date of Issue, the City shall deposit City funds in the Reserve Account such that the amount on deposit in the Reserve Account shall equal the Reserve Requirement on such date. The City covenants and agrees that it will maintain an amount of money and assets in the Reserve Account that will be equal to the Reserve Requirement, except for withdrawals therefrom as authorized herein.

The City covenants and agrees that in the event that it issues any Future Parity Bonds, it will provide in each ordinance authorizing the issuance of the same that, on the date of issuance of any such Future Parity Bonds, an amount shall be deposited into the Reserve Account (from Future Parity Bond proceeds or any other source), that together with the amount already in the Reserve Account, will be equal to the Reserve Requirement.

Whenever there is a sufficient amount in the Principal and Interest Account and the Reserve Account to pay the principal of, premium, if any, and interest on all Bonds and Parity Bonds then outstanding, the money in the Reserve Account may be used to pay such principal, premium, if any, and interest. Money in the Reserve Account may be withdrawn to redeem and retire, by payment of principal, premium, if any, and the interest due to such date of redemption, any outstanding Bonds and Parity Bonds of any single issue or series so long as the moneys remaining on deposit in the Reserve Account are equal to the Reserve Requirement of the remaining outstanding Bonds and Parity Bonds.

In the event there shall be a deficiency in the Principal and Interest Account to meet maturing installments of either principal of or interest on any Bonds and Parity Bonds, such deficiency shall be made up from the Reserve Account by the withdrawal of money therefrom. Any deficiency created in the Reserve Account by reason of any such withdrawal shall be made up from the Net Revenue and the ULID Assessments which shall be first available after making necessary provisions for the required payments into the Principal and Interest Account.

The City reserves the right at any time and from time to time to obtain one or more Surety Bonds in lieu of maintaining all or part of the Reserve Requirement; provided, however, that, so long as any of the Bonds and any Parity Bonds are outstanding, any Surety Bonds must be (1) provided by an insurer in the highest rating categories by both Standard & Poor's and Moody's, or (2) a bank letter of credit approved in writing by the insurer of any Parity Bonds, if any, which approval shall not be unreasonably withheld. In the event any such Surety Bonds are obtained, the City covenants and agrees to maintain an amount in the Reserve Account at least equal to the difference between the Reserve Requirement and the aggregate limit on the amount payable under such Surety Bonds to pay debt service on the Bonds and any Parity Bonds (the "Surety Bond limit"); the amount of said difference at any time and from time to time is hereinafter referred to as the "adjusted Reserve Requirement." In the event that the Surety Bond limit shall be expected to be reduced by reason of expiration of the Surety Bond on a fixed date or the end of a fixed term, the City hereby covenants and agrees to replenish the Reserve Account to an amount equal to the Reserve Requirement or the applicable adjusted Reserve Requirement no later than such date of expiration. In the event that the Surety Bond limit is reduced by reason of payment made under a Surety Bond to the Registrar to pay any principal of or interest on the Bonds or any Parity Bonds, the City hereby covenants and agrees to make payments to the issuer of such Surety Bond pursuant to the terms of a reimbursement agreement effective to reinstate the maximum Surety Bond limit; and to the extent there is no applicable reimbursement agreement, the City covenants and agrees to deposit in the Reserve Account from moneys first available therefor pursuant to Section 11 of this Ordinance such amounts as are necessary to provide a balance therein equal to the then applicable adjusted Reserve Requirement.

Income from the investments in the Principal and Interest Account shall be deposited in such account. Income from investments in the Reserve Account shall be deposited in such account until the amount therein is equal to the Reserve Requirement, and any excess shall be deposited into the Principal and Interest Account. Investments in the Reserve Account shall be valued at fair market value and marked to market at least once each year. If the value of the money and investments in the Reserve Account exceeds the Reserve Requirement, the excess shall be transferred to the Principal and Interest Account.

All money in the Bond Fund may be kept in cash or deposited in the official bank depository of the City or in any institution permitted by law, or may be invested in Government Obligations or other legal investments permitted to the City maturing not later than the date when needed (for investments in the Principal and Interest Account) or the last maturity of any outstanding bonds payable from the Bond Fund (for investments in the Reserve Account). In no event shall any money in the Bond Fund or any other money reasonably expected to be used to pay principal and/or interest on the Bonds be invested at a yield that would cause any Bond to be an "arbitrage bond" within the meaning of the Code. 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 11. Flow of Funds; Rate Stabilization Account.

(a) The City will use, pay out and distribute the Gross Revenue of the Waterworks Utility, other than money deposited in the Bond Fund, in the following order of priority:

- (1) To pay Operating and Maintenance Expenses;
- (2) To meet the required debt service payments on the Bonds and any outstanding Parity Bonds by making payments into the Principal and Interest Account;
- (3) To make required payments into the Reserve Account;
- (4) To meet the required debt service on any water and sewer revenue bonds issued having a charge and lien on the Gross Revenue of the Waterworks Utility junior to the Bonds and Parity Bonds; and
- (5) To redeem and retire any then outstanding water and sewer revenue bonds or to purchase any or all of those bonds in the open market or otherwise as provided in those bonds, or to make necessary betterments and replacements of or repairs, additions or extensions to the Waterworks Utility, or for any other lawful purpose.

(b) The Rate Stabilization Account of the Utility Fund has heretofore been established. The City may at any time, and as consistent with this Ordinance and other ordinances authorizing the issuance of Parity Bonds, deposit into the Rate Stabilization Account any Gross Revenue of the Waterworks Utility and any other money received by the City and available to be used therefor, excluding principal proceeds of any Parity Bonds or other borrowing. The City may, upon authorization by resolution, at any time withdraw money from the Rate Stabilization Account for inclusion in the Net Revenue for any year, so long as the Net Revenue for that year equals or exceeds 1.0 times Annual Debt Service. Such deposits or

withdrawals may be made up to and including the date 180 days after the end of the fiscal year for which the deposit or withdrawal will be included as Net Revenue for that fiscal year.

Earnings from investments in the Rate Stabilization Account shall be deposited in such Account and shall not be included as Gross Revenue of the Waterworks Utility unless and until withdrawn from such Account as provided herein.

No deposit of Gross Revenue of the Waterworks Utility shall be made into the Rate Stabilization Account to the extent that such deposit would prevent the City from meeting the Coverage Requirement in the relevant fiscal year.

Section 12. Pledge of Revenue and Lien Position. The Net Revenue and all ULID Assessments are hereby pledged for the payment of the Bonds and any Parity Bonds. This pledge shall constitute a lien and charge upon such Net Revenue and ULID Assessments prior and superior to any other liens and charges whatsoever.

Section 13. Findings Regarding Sufficiency of Revenue. It is declared that, in creating the Bond Fund and in fixing the amounts to be paid into it as aforesaid, the City Council has had due regard for Operating and Maintenance Expenses (and costs of maintenance and operation as used in RCW 35.92.100) and the debt service requirements of the Bonds and any currently outstanding Parity Bonds, and that the City Council is not setting aside into the Bond Fund a greater amount or proportion of the Gross Revenue of the Waterworks Utility than in its judgment will be available over and above such Operating and Maintenance Expenses and debt service requirements of the Bonds and any currently outstanding Parity Bonds and that no portion of the Gross Revenue of the Waterworks Utility has been previously pledged for any unrefunded indebtedness other than the payment of the Bonds and such currently outstanding Parity Bonds.

Section 14. Covenants of the City. The City covenants and agrees with the Owner of each of the Bonds as follows:

(a) It will establish, maintain and collect rates and charges for all services and facilities provided by the Waterworks Utility which will be fair and nondiscriminatory, and will adjust those rates and charges from time to time so that:

(1) Gross Revenue of the Waterworks Utility will at all times be sufficient to pay (A) all Operating and Maintenance Expenses on a current basis, (B) all amounts that the City is obligated to pay into the Bond Fund, when due, and (C) all taxes, assessments or other governmental charges lawfully imposed upon the Waterworks Utility or other revenue therefrom or payments in lieu thereof, and any and all other amounts which the City may now or hereafter become obligated to pay from Gross Revenue of the Waterworks Utility by law or contract; and

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

(b) The City will at all times maintain and keep the Waterworks Utility in good repair, working order and condition, and also will at all times operate such utility and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) The City will collect promptly all ULID Assessments. Such ULID Assessments may be used to pay the principal or interest on any bonds payable out of the Bond Fund without those ULID Assessments being particularly allocated to the payment of principal of or interest on any particular series of Bonds or Parity Bonds.

(d) The City may sell, transfer or otherwise encumber or dispose of any or all of the works, plant, properties, facilities or other part of the Waterworks Utility or any real or personal property comprising a part of the Waterworks Utility only consistent with one or more of the following:

(1) The City in its discretion may carry out such a sale, transfer or disposition (each, as used in this subparagraph, a “transfer”) if the facilities or property transferred are not material to the operation of the Waterworks Utility, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Waterworks Utility or are no longer necessary, material or useful to the operation of the Waterworks Utility; or

(2) The City in its discretion may carry out such a transfer if the aggregate depreciated cost value of the facilities or property being transferred under this subparagraph (2) in any fiscal year comprises no more than 3% of the total assets of the Waterworks Utility; or

(3) The City in its discretion may carry out such a transfer if the City receives from the transferee an amount equal to the greater of the following:

(A) An amount that will be in the same proportion to the net amount of Bonds and Parity Bonds then outstanding (defined as the total amount of the Bonds and Parity Bonds less the amount of cash and investments in the Bond Fund and accounts therein) that the Gross Revenue of the Waterworks Utility from the portion of the Waterworks Utility sold or disposed of for the preceding year bears to the total Gross Revenue of the Waterworks Utility for that period;

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

(C) An amount equal to the fair market value of the portion of the Waterworks Utility transferred. As used herein, “fair market value” means the most probable price that a property should bring in a competitive and open market under all conditions requisite to a fair sale, the willing buyer and willing seller each acting prudently and knowledgeably and assuming that the price is not affected by coercion or undue stimulus.

The proceeds of any transfer under this subparagraph (3) shall be used first, to promptly redeem, or irrevocably set aside for the redemption of, Bonds and Parity Bonds, and, if any proceeds remain, second, to provide for part of the cost of additions to and betterments and extensions of the Waterworks Utility. In no event shall proceeds of any transfer under this section be treated as Gross Revenue of the Waterworks Utility for purposes of this Ordinance.

(e) The City will keep proper books, records and accounts with respect to the operations, income and expenditures of the Waterworks Utility in accordance with proper accounting procedures and any applicable rules and regulations prescribed by the State. It will prepare annual financial and operating statements within 270 days of the close of each fiscal year showing in reasonable detail the financial condition of the Waterworks Utility 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 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 Waterworks Utility. Such statements shall be sent to the Owner of any Bonds or Parity Bonds upon written request therefor being made to the City.

(f) Except to aid the poor or infirm, the City will not furnish any service of the Waterworks Utility to any customer whatsoever free of charge and will take prompt legal action to enforce collection of all delinquent accounts.

(g) The City will at all times carry fire and such other forms of insurance on such of the buildings, equipment, works, plants, facilities and properties of the Waterworks Utility, as under good practice are ordinarily carried on such buildings, equipment, works, plants, facilities and properties by utilities engaged in the operation of water and sewer systems to the full insurable value thereof, or will implement and maintain a self-insurance or an insurance pool program with reserves adequate, in the reasonable judgment of the City, to protect the Waterworks Utility and the Owners of the Bonds and any Parity Bonds against loss, and also will carry adequate public liability insurance at all times. The premiums on such insurance policies are declared to be a normal part of Operating and Maintenance Expenses.

(h) The City will pay all Operating and Maintenance Expenses and the debt service requirements for the outstanding Bonds and Parity Bonds and otherwise meet the obligations of the City as herein set forth.

(i) The City will not create any special fund or funds for the payment of the principal of and interest on any other revenue bonds that will have any priority over or that will rank on a parity with the payments required by this Ordinance to be made out of the Gross Revenue of the Waterworks Utility and ULID Assessments, nor will it issue any Future Parity Bonds except as permitted pursuant to Section 15 hereof.

Section 15. Future Parity Bonds. The City further covenants and agrees with the Owners of the Bonds that, for as long as any of the Bonds remain outstanding, the City will not issue any bonds having a greater or equal priority of lien upon the Gross Revenue of the Waterworks

Utility to pay and secure the payment of the principal of and interest on the Bonds or any Parity Bonds, except as follows:

(a) The City reserves the right to issue Future Parity Bonds for the purpose of:

(1) Providing funds to acquire, construct, reconstruct, install or replace any equipment, facilities, additions, betterments or other capital improvements to the Waterworks Utility pursuant to a plan or plans of additions and betterments thereto hereafter adopted;

(2) Refunding at or prior to their maturity, any part or all of any outstanding revenue bond anticipation notes, or revenue bonds, or other obligations payable out of the Net Revenue; or

(3) Any other purpose permitted by law.

(b) The City shall pledge that payments will be made out of the Net Revenue into the Bond Fund and the accounts therein to pay and secure the payment of the principal of and interest on such Future Parity Bonds on a parity with the payments required herein to be made out of such moneys into the Bond Fund and its accounts to pay and secure the payment of the principal of and interest on any Bonds and any other Parity Bonds then outstanding, upon compliance with the following conditions:

(1) At the time of the issuance of any Future Parity Bonds, there is no deficiency in the Bond Fund or its accounts.

(2) The principal of and interest on any Future Parity Bonds shall be payable out of the Bond Fund and, upon issuance of such Future Parity Bonds, the Reserve Account shall be funded at the Reserve Requirement from (A) proceeds of such Parity Bonds, (B) a Surety Bond or an amount plus a Surety Bond, or (C) other legally available money, and if such money is from Net Revenue within five years from the date of issuance of such Future Parity Bonds in five approximately equal annual payments.

(3) If Future Parity Bonds are to be issued as term bonds, the ordinance authorizing their issuance shall provide for a schedule of mandatory sinking fund redemption payments to be made into the Principal and Interest Account sufficient to amortize the principal of such term bonds on or before the maturity date thereof.

(4) The ordinance authorizing the issuance of such Future Parity Bonds shall provide that ULID Assessments levied in any ULIDs created to pay part of the cost of improvements to the Waterworks Utility for which such Future Parity Bonds are issued shall be paid into the Bond Fund.

(5) Prior to the delivery of any Future Parity Bonds, the City shall have on file either:

(A) A certificate of the Finance Director demonstrating that during any 12 consecutive calendar months out of the immediately preceding 36 calendar

months Net Revenue is equal to at least the Coverage Requirement for the Bonds and all outstanding Parity Bonds plus the Future Parity Bonds proposed to be issued; or

(B) A certificate of an Independent Utility Consultant showing that, in his/her/its professional opinion, the “Adjusted Net Revenue” and the “Estimated Assessment Income” (each determined as described in this subparagraph (B)) for each calendar year after the issuance of such Future Parity Bonds will equal at least 1.25 time the “Future Average Annual Debt Service” (determined as described in this subparagraph (B)).

The term “Future Annual Debt Service” as used in this subparagraph (B) means the amount required to be paid in a calendar year for (i) interest on all Bonds and any Parity Bonds then outstanding, including the Future Parity Bonds proposed to be issued, plus (ii) the principal of all Bonds and any Parity Bonds then outstanding, including the Future Parity Bonds proposed to be issued. The term “Future Average Annual Debt Service” as used in this subparagraph (B) means the total Future Annual Debt Service for the calendar years in which all Bonds and any Parity Bonds, including the Future Parity Bonds proposed to be issued, are outstanding divided by the number of such years.

The term “Adjusted Net Revenue” as used in this subparagraph (B) means the Net Revenue for a period of any twelve (12) consecutive months out of the twenty-four (24) months immediately preceding the date of delivery of such proposed Parity Bonds as adjusted by such Independent Utility Consultant to take into consideration the following changes in Net Revenue estimated to occur under the following conditions for each year after such delivery for so long as any Bonds and any Parity Bonds, including the Future Parity Bonds proposed to be issued, shall be outstanding:

(i) The additional Net Revenue that would have been received if any change in rates and charges adopted prior to the date of such certificate and subsequent to the beginning of such twenty-four-month period, had been in force during the full twelve-month period;

(ii) The additional Net Revenue that would have been received if any facility of the Waterworks Utility that became fully operational after the beginning of such twelve-month period had been so operating for the entire period;

(iii) The additional Net Revenue estimated by such Independent Utility Consultant to be received as a result of any additions, betterments and improvements to and extensions of any facilities of the Waterworks Utility that are (a) under construction at the time of such certificate or (b) will be constructed from the proceeds of the Future Parity Bonds to be issued;

(iv) The additional Net Revenue estimated by such Independent Utility Consultant to be received if any customers added to the Waterworks Utility during such twelve-month period were customers for the entire period; and

(v) The additional Net Revenue estimated to be received from anticipated growth in customers not to exceed two percent (2%) per year for a period of not more than ten years after delivery of such proposed Future Parity Bonds.

The "Estimated Assessment Income" for each calendar year shall be determined as follows:

(i) By deducting from the principal amount of unpaid ULID Assessments levied by the City in each applicable ULID and payable into the Bond Fund for estimated nonpayment an amount equal to five percent (5%) of such unpaid principal;

(ii) By dividing the principal balance remaining after such deduction by the number of years in which installments on each such assessment roll may be paid without becoming delinquent; and

(iii) By adding to the amount found for each year the interest due and payable on such installments.

Such Independent Utility Consultant may rely upon, and his certificate shall have attached thereto, financial statements of the Waterworks Utility, showing income and expenses for the period upon which the same is based.

The certificate of such Independent Utility Consultant shall be conclusive and the only evidence required to show compliance with the provisions and requirements of this Section 15(b)(5). Notwithstanding the foregoing requirement, if Future Parity Bonds are to be issued for the purpose of refunding at or prior to their maturity any part or all of the then outstanding Bonds or Parity Bonds and the issuance of such refunding Future Parity Bonds will result in a debt service savings and does not require an increase of more than \$5,000 in any fiscal or calendar year for principal of and interest on such refunding Future Parity Bonds over and above the amount required in such year for the principal of and interest on the Bonds or Parity Bonds being refunded thereby, the condition stated in this Section 15(b)(5) need not be met.

(c) Nothing herein contained shall prevent the City from (1) issuing revenue bonds or other obligations that are a charge upon the Gross Revenue of the Waterworks Utility junior or inferior to the payments required by this Ordinance to be made out of such Gross Revenue of the Waterworks Utility into the Bond Fund and Accounts therein to pay and secure the payment of any outstanding Bonds and Parity Bonds, and (2) securing such junior lien revenue bonds by pledge of assessments levied in one or more ULIDs that shall have been created to construct the improvements to be paid for out of the proceeds of such junior lien revenue bonds.

(d) Nothing herein contained shall prevent the City from issuing revenue bonds to refund maturing Bonds or Parity Bonds for the payment of which moneys are not otherwise available.

Section 16. Tax Exemption Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation, and will take or require to be taken such acts as may be permitted by, and as may from time to time be required under, applicable law to continue the exclusion of the interest on the Bonds from gross income for purposes of federal income taxation. Without limiting the generality of the foregoing, the City will not invest or make or permit any use of the proceeds of the Bonds or of its other money at any time during the term of the Bonds that will cause any Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code.

The City covenants that it shall calculate or cause to be calculated, and shall rebate to the United States, all earnings from the investment of the Bond proceeds that are in excess of the amount that would have been earned had the yield in such investments been equal to the yield in the Bonds, plus income derived from such excess earnings, to the extent and in the manner required by Section 148 of the Code.

The City has not been notified of any listing or proposed listing by the IRS to the effect that the City is a bond issuer the arbitrage certifications of which may not be relied upon.

The City will take no actions and will make no use of the proceeds of the Bonds or any other funds held under this Ordinance that would cause any Bond to be treated as a "private activity bond" (as defined in Section 141(b) of the Code) subject to treatment under said Section 141(b) as an obligation not described in Section 103(a) of the Code, unless the tax exemption thereof is not affected.

Section 17. Defeasance. If money and/or Government Obligations maturing at such time(s) and bearing such interest to be earned thereon (without any reinvestment thereof) as will provide a series of payments that shall be sufficient, together with any money initially deposited, to provide for the payment of all of the principal of and interest on all or a designated portion of the Bonds, when due in accordance with their respective terms or upon the earlier redemption thereof in accordance with a refunding plan adopted by the City, are set aside in a special fund (hereinafter called the "trust account") to effect such payment or redemption and are pledged irrevocably for the purpose of effecting such payment or redemption, then no further payments need be made into the Bond Fund for the payment of the principal of and the interest on such Bonds, the Owners thereof shall cease to be entitled to any lien, benefit or security of this Ordinance in the Gross Revenue of the Waterworks Utility, ULID Assessments and funds and accounts obligated to the payment of such Bonds, except for the covenants in Section 16 of this Ordinance which shall survive the defeasance hereof until the actual payment of the Bonds and any required arbitrage rebate, and except for the right to receive the money and the principal and interest proceeds on the obligations set aside in the trust account, and such Bonds shall no longer be deemed to be outstanding hereunder.

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

Section 18. Negotiated Sale of Bonds. The City Council hereby authorizes and directs either Authorized Officer to negotiate the sale of the Bonds to the Purchaser. The Bonds shall be sold pursuant to the Purchase Agreement, the terms and conditions of which the City Council hereby accepts and approves; provided, that the sale date of the Bonds shall be no later than September 1, 2012. The Bonds shall be in the aggregate principal amount, mature on such dates, bear interest at such rates per annum, be subject to such redemption provisions, and be sold at such purchase prices as are set forth in the Purchase Agreement; provided, that:

- (a) The aggregate principal amount of the Bonds may not exceed \$6,000,000;
- (b) One or more rates of interest may be fixed for the Bonds, which rate(s) must be in multiples of 1/8th or 1/20th of 1% or both, and no rate of interest for any maturity of the Bonds may exceed 5.00%;
- (c) The true interest cost to the City for the Bonds may not exceed 3.70%;
- (d) The purchase price for the Bonds may not be less than 98% nor greater than 120% of the initial aggregate principal amount of the Bonds;
- (e) The Bonds shall be issued subject to optional and mandatory redemption provisions, including designation of Term Bonds, if any, set forth in Section 4;
- (f) The issuance and sale of the Bonds will result in a minimum net present value savings to the City of 5.00% of the Refunded 2004 Bonds; and
- (g) The final maturity date of the Bonds may be not later than April 1, 2029.

The City Council hereby authorizes and directs either Authorized Officer to execute, for and on behalf of the City, the Purchase Agreement for the Bonds conforming to the requirements of this Ordinance, with such changes as the Authorized Officer executing the same may deem to be in the best interests of the City and not inconsistent with the provisions of this Ordinance, and to deliver the same to the Purchaser.

Section 19. Delivery of Bonds; Temporary Bonds; Closing. The Bonds will be printed at City expense and will be delivered to the Purchaser at Closing in accordance with the Purchase Agreement, accompanied by the approving legal opinion of Gottlieb Fisher PLLC, bond counsel, relative to the issuance of the Bonds. Bond counsel has not been engaged to review or express any opinion concerning the completeness or accuracy of the official statement or other disclosure

documentation used in connection with the offer or sale of the Bonds by any person, and bond counsel's opinion shall so state. Bond counsel has not been retained to monitor, and shall not be responsible for monitoring, the City's compliance with any federal law or regulations to maintain the tax-exempt status of the interest on the Bonds.

If definitive Bonds are not ready for delivery by the date established for closing, either or both of the Authorized Officers, upon the approval of the Purchaser, may cause to be issued and delivered to the Purchaser one or more temporary Bonds with appropriate omissions, changes and additions. Any temporary Bond or Bonds shall be entitled and subject to the same benefits and provisions of this Ordinance with respect to the payment, security and obligation thereof as definitive Bonds authorized hereby. Such temporary Bond or Bonds shall be exchangeable without cost to the Owners thereof for definitive Bonds when the latter are ready for delivery.

The proper City officials, including but not limited to, the Authorized Officers, are authorized and directed to approve and/or execute all documents, including, but not limited to, the final official statement pertaining to the Bonds, and to do everything necessary for the preparation and delivery of a transcript of proceedings pertaining to the Bonds, and the printing, execution and delivery of definitive Bonds to the Purchaser, each without unreasonable delay.

Section 20. Call of Refunded 2004 Bonds for Redemption. The City hereby calls Refunded 2004 Bonds for redemption at a redemption price of par plus accrued interest to their respective redemption dates, as follows:

(a) The Refunded 2004 Bonds maturing on April 1, 2024 bearing the CUSIP No. 316608BD9 are hereby called for redemption on October 1, 2012; and

(b) The Refunded 2004 Bonds maturing on April 1, 2017, April 1, 2029 and April 1, 2024 bearing the CUSIP No. 316608BE7 are hereby called for redemption on April 1, 2014.

Such calls for redemption shall become irrevocable upon delivery of the Bonds at Closing; provided, however, that if the Bonds are not delivered to the Purchaser at Closing, or if the Purchaser fails to pay the full purchase price therefor at Closing for any reason, then such calls of such Refunded 2004 Bonds for redemption shall be hereby automatically revoked and shall be null and void.

Section 21. Application of Funds; Refunding Plan. The proceeds received from the sale of the Bonds (including any net original issue premium but net of the underwriter's discount) shall be applied on the Date of Issue, together with such amount, if any, to be identified in the Purchase Agreement as will be transferred from the Reserve Account, to undertake the following Refunding Plan:

(a) The irrevocable call of all of the Refunded 2004 Bonds for redemption as described in Section 20 of this Ordinance;

(b) The payment to the Escrow Agent on the Date of Issue of all of the net proceeds of the Bonds and such amount, if any, to be identified in the Purchase Agreement, as will be transferred from the Reserve Account, and the application of such funds to purchase the Escrow

Obligations and provide any necessary Initial Cash deposit as will provide for the payment of the Escrow Payments;

(c) The receipt by the Escrow Agent of the maturing installments of principal of and interest on the Escrow Obligations;

(d) The Escrow Agent's payment to the fiscal agency of the State of Washington, acting as registrar for the Refunded 2004 Bonds, of money sufficient to pay, when due, the Escrow Payments;

(e) The Escrow Agent's payment, on behalf of the City, of costs of issuance and other incidental costs in connection with the Bonds, to be described in the Purchase Agreement; and

(f) The delivery of the Verification.

Section 22. Escrow Agreement. The Escrow Agreement is hereby approved in order to accomplish the advance refunding and defeasance of the Refunded 2004 Bonds pursuant to the Refunding Plan. Either or both of the Authorized Officers are authorized: (a) to execute and to deliver said Escrow Agreement, on behalf of the City, to the Escrow Agent on or before Closing, with such changes as the Authorized Officer(s) executing the same may deem to be in the best interests of the City and not inconsistent with the provisions of this Ordinance; and such execution and delivery of the Escrow Agreement shall evidence irrevocably the approval of the executed Escrow Agreement by the City; and (b) to cause the Escrow Agent to deliver notices of defeasance and redemption of the Refunded 2004 Bonds in accordance with the Escrow Agreement.

Section 23. Acquisition of Escrow Obligations. Either or both of the Authorized Officers shall, at or prior to Closing, make appropriate arrangements for the payment for and delivery of the Escrow Obligations in accordance with the terms of the Escrow Agreement, including through, prior to Closing, delivery to the United States Bureau of Public Debt subscriptions for any Escrow Obligations which are to be acquired from the United States Bureau of Public Debt. The maturing principal of and the interest on such Escrow Obligations, together with the Initial Cash, shall be sufficient to pay the Escrow Payments, when due.

The Escrow Agent shall designate in any such subscriptions that all the principal of and interest on the Escrow Obligations subscribed for with the United States Bureau of Public Debt shall be payable to the Escrow Agent. Such subscription may be amended as permitted by federal law.

Section 24. Verification. Either or both of the Authorized Officers are authorized and directed to obtain the Verification prior to Closing. At Closing, if there has been any change in Escrow Obligations or cash deposited with the Escrow Agent under this Ordinance and the Escrow Agreement, the Authorized Officers shall cause the sufficiency of the Escrow Fund (defined in the Escrow Agreement) to be re-verified in such manner as they shall deem necessary.

Section 25. Preliminary and Final Official Statement. The City Council hereby authorizes and directs either Authorized Officer to cause a preliminary official statement pertaining to the

Bonds to be prepared and distributed in electronic and/or printed form to prospective purchasers of the Bonds and others, and to deem such preliminary official statement final, on behalf of the City, for purposes of the Rule. The City Council hereby authorizes and directs either Authorized Officer to review and approve, on behalf of the City, a final official statement pertaining to the Bonds in substantially the form of the preliminary official statement, with such changes, if any, as may be deemed by him to be appropriate, and to approve the distribution of the final official statement in electronic and/or printed form in connection with the offer and sale of the Bonds.

Section 26. Undertaking to Provide Continuing Disclosure. This Section 26 constitutes the City's written undertaking for the benefit of the Owners and Beneficial Owners of the Bonds required by subsection (b)(5)(i) of the Rule (the "Undertaking").

The City hereby agrees to provide or cause to be provided annually to the MSRB the following annual financial information and operating data (collectively, the "Annual Financial Information") for each prior fiscal year, commencing with the fiscal year ending December 31, 2011, on or before the last day of the ninth month following the end of such prior fiscal year, commencing September 30, 2012:

(a) Annual financial statements prepared in accordance with the generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by State law; which statements will not be audited, except that if and when audited financial statements are otherwise prepared and available to the City, they will be provided (the "Annual Financial Statements");

(b) A statement of authorized, issued and outstanding bonded debt secured by Net Revenue;

(c) Debt service coverage ratios; and

(d) General customer statistics for the Waterworks Utility.

In its provision of such financial information and operating data, the City may cross-reference to any "final official statement" (as defined in the Rule) available to the public on the MSRB's internet web site or filed with the SEC.

If not submitted as part of the Annual Financial Information, then when and if available, the City shall provide its Annual Financial Statements, which shall have been audited by such auditor as shall be then required or permitted by State law, to the MSRB.

The City further agrees to provide or cause to be provided to the MSRB, in a timely manner not in excess of ten business days after the occurrence of the event, notice of any of the following events with respect to the Bonds:

1. Principal and interest payment delinquencies;

2. Non-payment related defaults, if material;

3. Unscheduled draws on debt service reserves reflecting financial difficulties;
4. Unscheduled draws on credit enhancements reflecting financial difficulties;
5. Substitution of credit or liquidity providers, or their failure to perform;
6. Adverse tax opinions, the issuance by the IRS of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
7. Modifications to rights of the Owners of the Bonds, if material;
8. Bond calls, if material, and tender offers;
9. Defeasances of the Bonds;
10. Release, substitution or sale of property securing repayment of the Bonds, if material;
11. Rating changes;
12. Bankruptcy, insolvency, receivership, or similar event of the City;
13. The consummation of a merger, consolidation or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
14. Appointment of a successor or additional trustee or the change of name of a trustee, if material.

The City also agrees to provide or cause to be provided to the MSRB, in a timely manner, notice of its failure to provide the Annual Financial Information for the prior fiscal year on or before the last day of the ninth month following the end of such prior fiscal year.

The City agrees that all documents provided to the MSRB pursuant to this Undertaking shall be provided in an electronic format and accompanied by such identifying information, each as prescribed by the MSRB.

The City may amend its obligations under, or waive any provision of, this Undertaking upon receipt of a favorable opinion of nationally recognized bond counsel or other counsel familiar with the federal securities law, or pursuant to a favorable “no-action letter” issued by the SEC. In the event of any amendment or waiver of the City’s obligations under this Undertaking, the City agrees to describe such amendment in the Annual Financial Information for such fiscal year and shall include, as applicable, a narrative explanation of the reason for such amendment or waiver and its impact of the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition,

if the amendment relates to the accounting principles to be followed in preparing financial statements, (A) notice of such change will be given in the same manner as for a material event, and (B) the Annual Financial Information for the fiscal year in which the change is made shall present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

The City's obligations to provide Annual Financial Information and notices of certain events shall terminate without amendment upon the defeasance, prior redemption or payment in full of all of the then outstanding Bonds. This Undertaking, or any provision hereof, shall be null and void if the City (i) obtains an opinion of nationally recognized bond counsel or other counsel familiar with the federal securities laws to the effect that those portions of the Rule which require this Undertaking or any such provision are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (ii) notifies and provides the MSRB with copies of such opinion.

The right of each Owner or Beneficial Owner of Bonds to enforce the provisions of this Undertaking shall be limited to the right to obtain specific enforcement of the City's obligations under this Undertaking, and any failure by the City to comply with the provisions of this Undertaking shall not be a default with respect to the Bonds under this Ordinance.

The Authorized Officers are authorized and directed to take such further action on behalf of the City as may be necessary, appropriate or convenient to carry out the requirements of this Undertaking.

Section 27. Contract; Savings Clause. The covenants contained in this Ordinance and in the Bonds shall constitute a contract between the City and the Owner of each and every Bond. 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 and after final appeal (if any appeal be taken) to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds.

Section 28. Effective Date. This Ordinance shall take effect from and after its passage and five days following its publication as required by State law. A summary of this Ordinance may be published in lieu of the entire Ordinance as authorized by State law.

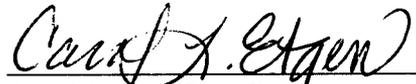
Introduced the 10th day of April, 2012.

Passed by the City Council on the 24th day of April, 2012.



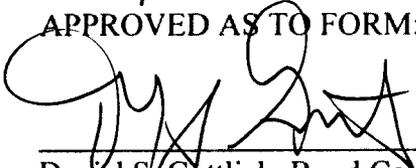
David Zabell, City Manager

ATTEST:



Carol Etgen, City Clerk

APPROVED AS TO FORM:



Daniel S. Gottlieb, Bond Counsel to the City

Published: April 27th, 2012
Effective Date: May 2nd, 2012