Ordinance No. 121939

Council Bill No. 115382

AN ORDINANCE relating to the municipal water system of The City of Seattle; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purpose of paying all or part of the costs of refunding certain of the City's water system revenue bonds and issuing and selling the bonds; providing for terms, covenants and manner of sale of the bonds; describing the lien of the bonds; and providing for agreements and activities in connection with the disposition of the proceeds of the bonds.

CF No.

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Date Re - Referred:	To: (committee)
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The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Richard J. McIver
Councilmember

Committee Action:

9/21/05 RJM, NL moved + passed 2-0

9-26-05 Passed 9-0

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

LAW DEPARTMENT

Law Dept. Review	OMP Review	City Clerk Review	Electronic Copy Loaded	Indexed

ORDINANCE 121939

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Passed _____, 2005

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ORDINANCE 121939

AN ORDINANCE relating to the municipal water system of The City of Seattle; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purpose of paying all or part of the costs of refunding certain of the City's water system revenue bonds and issuing and selling the bonds; providing for terms, covenants and manner of sale of the bonds; describing the lien of the bonds; and providing for agreements and activities in connection with the disposition of the proceeds of the bonds.

WHEREAS, The City of Seattle (the "City") owns and operates a municipal water system (the "Municipal Water System"); and

WHEREAS, the City issued water system revenue bonds pursuant to the ordinances and resolutions set forth in Exhibit A to this ordinance (the "Outstanding Parity Bonds"); and

WHEREAS, the City has determined that it is in the best interest of the City to authorize the issuance and sale, subject to the provisions of this ordinance, of water system refunding revenue bonds (collectively, the "Bonds"), in one or more series, for the purpose of paying all or part of the cost of refunding all or a portion of the Outstanding Parity Bonds, the Bonds and certain water system revenue bonds hereafter issued (collectively, the "Refundable Bonds") and of paying all or part of the costs of issuance and sale of the Bonds; and

WHEREAS, the City from time to time will receive, review and adopt a plan to refund selected maturities of those Refundable Bonds, which selected maturities will be identified in the Bond Resolutions (hereinafter defined); and

WHEREAS, this ordinance will allow the refunding of any Refundable Bonds only if the refunding is (a) consistent with City financial policies in effect at the time of the proposed refunding and (b) approved by resolution of the City Council; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. <u>Definitions</u>. As used in this ordinance and for the purposes of this ordinance the following words shall have the following meanings:

"<u>Accreted Value</u>" means:

(1) with respect to any Capital Appreciation Bonds, as of the time of calculation, the sum of the amount representing the initial principal amount of such Capital Appreciation Bonds as set forth in the applicable Parity Bond Authorizing Ordinance plus the

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interest accumulated, compounded and unpaid thereon as of the most recent compounding date, or

(2) with respect to original issue discount bonds under the Code, as of the time of calculation, the amount representing the initial public offering price of such original issue discount bonds plus the amount of the discounted principal which has accreted since the date of issue, determined in accordance with the provisions of the applicable Parity Bond Authorizing Ordinance.

"Acquired Obligations" means those Government Obligations purchased to accomplish the refunding of the Refunded Bonds, consistent with the Refunded Bond Legislation and any applicable agreements with Bond Insurers.

"Adjusted Annual Debt Service" for any fiscal year means Annual Debt Service minus (1) an amount equal to ULID Assessments due in that year and not delinquent, (2) an amount equal to earnings from investments in the Reserve Subaccount and (3) Annual Debt Service provided for by Parity Bond proceeds.

"Adjusted Gross Revenue of the Municipal Water System" or **"Adjusted Gross Revenue"** means Gross Revenue of the Municipal Water System plus withdrawals from the Rate Stabilization Account and minus (1) ULID Assessments, (2) earnings from investments in the Reserve Subaccount and (3) deposits into the Rate Stabilization Account.

"Adjusted Net Revenue of the Municipal Water System" or **"Adjusted Net Revenue"** means Adjusted Gross Revenue less Operation and Maintenance Expenses.

"Annual Debt Service" means, for any fiscal year of the City, all amounts required to be paid in respect of interest on and principal of Parity Bonds and Payment Agreement Payments in respect of Parity Payment Agreements, subject to the following:

(i) Debt Service on Term Bonds. For purposes of calculating debt service on Term Bonds, only the scheduled mandatory redemption amounts payable in respect of principal of Term Bonds shall be taken into account in any fiscal year prior to the Term Bond Maturity

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Year, and only the principal amount scheduled to remain outstanding after payment of all prior mandatory redemption amounts shall be taken into account in the Term Bond Maturity Year;

(ii) Interest on Parity Bonds. For purposes of determining compliance with the Coverage Requirement, the Reserve Requirement and conditions for the issuance of Future Parity Bonds,

(A) Generally. Except as otherwise provided by subparagraph (ii)(B) with respect to Variable Interest Rate Bonds and by subparagraph (ii)(C) with respect to Parity Bonds with respect to which a Payment Agreement is in force, interest on any issue of Parity Bonds shall be calculated based on the actual amount of accrued, accreted or otherwise accumulated interest that is payable in respect of that issue taken as a whole, at the rate or rates set forth in the Parity Bond Authorizing Ordinance;

(B) Interest on Variable Interest Rate Bonds. The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate (the "assumed RBI-based rate") that is 90% of the average RBI during the fiscal quarter preceding the quarter in which the calculation is made;

(C) Interest on Parity Bonds With Respect to Which a Payment Agreement is in Force. Debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects that (i) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a Variable Interest Rate instead shall be treated as obligations bearing interest at a fixed interest rate, and (ii) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a fixed interest rate instead shall be treated as obligations bearing interest at a Variable Interest Rate. Accordingly, the amount of interest deemed to be payable on any Parity Bonds with respect to which a Payment

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Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts. For the purposes of calculating as nearly as practicable Payment Agreement Receipts and Payment Agreement Payments under a Payment Agreement, the following assumptions shall be made:

(1) Counterparty Obligated to Pay Actual Variable Interest on Variable Interest Rate Bonds. If any Payment Agreement obligates a Qualified Counterparty to make payments to the City based on the actual Variable Interest Rate on Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds and obligates the City to make payments to the Qualified Counterparty based on a fixed rate, payments by the City to the Qualified Counterparty shall be assumed to be made at the fixed rate specified by the Payment Agreement and payments by the Qualified Counterparty to the City shall be assumed to be made at the actual Variable Interest Rate on such Parity Bonds, without regard to the occurrence of any event that, under the provisions of the Payment Agreement, would permit the Qualified Counterparty to make payments on any basis other than the actual Variable Interest Rate on such Parity Bonds, and the Parity Bond Authorizing Ordinance shall set forth a debt service schedule for those Parity Bonds based on that assumption;

(2) Variable Interest Rate Bonds and Payment Agreements Having the Same Variable Rate Component. If both a Payment Agreement and related Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds include a variable rate payment component that is required to be calculated on the same basis (including, without limitation, on the basis of the same variable rate index), it shall be assumed that the variable rate payment component payable pursuant to the Payment Agreement is equal in amount to the variable rate interest component payable on those Parity Bonds;

(3) Variable Interest Rate Bonds and Payment Agreements Having Different Variable Rate Interest Components. If a Payment Agreement obligates either

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the City or the Qualified Counterparty to make payments of a variable rate interest component on a basis that is different (including, without limitation, on a different variable rate index) from the basis that is required to be used to calculate interest on the Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds, it shall be assumed:

(a) City Obligated to Make Payments Based on Variable Rate Index. If payments by the City under the Payment Agreement are to be based on a variable rate index and payments by the Qualified Counterparty are to be based on a fixed rate, that payments by the City to the Qualified Counterparty will be based upon an interest rate equal to the assumed RBI-based rate, and that payments by the Qualified Counterparty to the City will be based on the fixed rate specified by the Payment Agreement; and

(b) City Obligated to Make Payments Based on Fixed Rate. If payments by the City under the Payment Agreement are to be based on a fixed rate and payments by the Qualified Counterparty are to be based on a variable rate index, that payments by the City to the Qualified Counterparty will be based on an interest rate equal to the rate (the "assumed fixed payor rate") that is 105% of the fixed rate specified by the Payment Agreement, and that payments by the Qualified Counterparty to the City will be based on a rate equal to the actual Variable Interest Rate on the Variable Interest Rate Bonds;

(4) Certain Payment Agreements May be Disregarded. Notwithstanding the provisions of subparagraphs (ii)(C)(1), (2) and (3) of this definition, the City shall not be required to (but may in its discretion) take into account in determining Annual Debt Service the effects of any Payment Agreement that has a term of ten years or less;

(D) Debt Service on Parity Payment Agreements. No additional debt service shall be taken into account with respect to a Parity Payment Agreement for any period during which Payment Agreement Payments on that Parity Payment Agreement are taken into account in determining Annual Debt Service on related Parity Bonds under subparagraph (ii)(C) of this definition. However, for any period during which Payment Agreement Payments are not

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taken into account in calculating Annual Debt Service on any outstanding Parity Bonds because the Parity Payment Agreement is not then related to any outstanding Parity Bonds, debt service on that Parity Payment Agreement shall be taken into account by assuming:

(1) City Obligated to Make Payments Based on Fixed Rate. If the City is obligated to make Payment Agreement Payments based on a fixed rate and the Qualified Counterparty is obligated to make payments based on a variable rate index, that payments by the City will be based on the assumed fixed payor rate, and that payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made, and

(2) City Obligated to Make Payments Based on Variable Rate Index. If the City is obligated to make Payment Agreement Payments based on a variable rate index and the Qualified Counterparty is obligated to make payment based on a fixed rate, that payments by the City will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made, and that the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement; and

(E) Balloon Bonds. For purposes of calculating debt service on any Balloon Bonds, it shall be assumed that the principal of those Balloon Bonds, together with interest thereon at a rate equal to the assumed RBI-based rate, will be amortized in equal annual installments over a term of 30 years.

"Average Annual Debt Service" means the sum of the Annual Debt Service for the remaining years to the last scheduled maturity of the applicable issue or issues of Parity Bonds divided by the number of those years.

"Balloon Bonds" means any series of Parity Bonds designated as Balloon Bonds in the applicable Parity Bond Authorizing Ordinance.

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"Bond Account" means that special account of the City known as the Water Revenue Bond Account created by Ordinance 116705 in the Water Fund of the City for the payment of the principal of, mandatory sinking fund payments, Payment Agreement Payments, premiums, (if any), and interest on the Parity Bonds.

"Bond Counsel" means a firm of lawyers nationally recognized and accepted as bond counsel and so employed by the City for any purpose under this ordinance applicable to the use of that term.

"Bond Insurance" means any bond insurance, letter of credit, guaranty, surety bond or similar credit enhancement device providing for or securing the payment of all or part of the principal of and interest on any Parity Bonds.

"Bond Insurer" means any provider of Bond Insurance approved by the City Council by ordinance or resolution.

"Bond Register" means the books or records maintained by the Bond Registrar on which are recorded the names and addresses of the Registered Owners of each of the Bonds.

"Bond Registrar" or **"Registrar"** means the Fiscal Agency of the State of Washington, or any successor bond registrar selected by the City, whose duties include the registration and authentication of the Bonds, maintenance of the Bond Register, effecting transfer of ownership of the Bonds, and paying the principal of and premium, if any, and interest on the Bonds.

"Bond Resolution" means the resolution or resolutions of the City Council adopted pursuant to this ordinance to specify certain additional provisions of each series of the Bonds and their sale.

"Bonds" means the refunding bonds issued in one or more series from time to time pursuant to, under the authority of and for the purposes provided in this ordinance.

"Capital Appreciation Bonds" means any Parity Bonds, all or a portion of the interest on which is compounded and accumulated at the rates or in the manner, and on the dates, set forth in the applicable Parity Bond Authorizing Ordinance and is payable only upon redemption

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or on the maturity date of such Parity Bonds. Parity Bonds that are issued as Capital Appreciation Bonds, but later convert to obligations on which interest is paid periodically, shall be Capital Appreciation Bonds until the conversion date and thereafter shall no longer be Capital Appreciation Bonds, but shall be treated as having a principal amount equal to their Accreted Value on the conversion date.

"City" means The City of Seattle, Washington.

"City Council" means the City Council of the City.

"Closing Date" means the date on which a series of Bonds is delivered to the initial purchaser or purchasers thereof upon payment in full therefor.

"Code" means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

"Contract Resource Obligation" means an obligation of the City, designated as a Contract Resource Obligation and entered into pursuant to Section 22 of this ordinance, to make payments for water supply, transmission or other commodity or service to another person or entity (including without limitation a separate utility system created pursuant to Section 21 of this ordinance).

"Coverage Requirement" in any fiscal year of the City means an amount of Adjusted Net Revenue of the Municipal Water System equal to at least 1.25 times the Adjusted Annual Debt Service that year on all Parity Bonds.

"Director of Finance" means the Director of the Department of Finance of the City, or any other officer who succeeds to substantially all of the responsibilities of that office specified in this ordinance.

"DTC" means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds.

"Event of Default" shall have the meaning assigned to that term in Section 27(a) of this ordinance.

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"**Fiscal Agency**" means either of the fiscal agencies of the State of Washington located in Seattle, Washington, and New York, New York, or any other paying agent/registrar of the City, as the same may be designated in the Bond Resolution or otherwise designated from time to time.

"**Future Parity Bonds**" means all revenue bonds and other obligations (other than the Bonds) of the City issued hereafter, the payment of which constitutes a charge and lien on the Net Revenue of the Municipal Water System equal in rank with the charge and lien upon such revenue required to be paid into the Bond Account to pay and secure the payment of the principal of and interest on the Parity Bonds. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section 19.

"**Government Obligations**" means those government obligations defined by RCW 39.53.010(9) as it now reads or hereafter may be amended or replaced.

"**Gross Revenue of the Municipal Water System**" or "**Gross Revenue**" means in any fiscal year of the City all of the revenues of the Municipal Water System, including but not limited to revenue from the sale or transmission of water; the sale, lease or furnishing of other commodities, services, properties or facilities; the imposition of connection, capital improvement or other charges; ULID Assessments; net receipts from Payment Agreements; and earnings from the investment of money in the Water Fund. However, Gross Revenue shall not include earnings of a separate utility system that may be acquired or constructed by the City pursuant to Section 21 of this ordinance; principal proceeds of Parity Bonds or other borrowings; or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund Municipal Water System obligations (until commingled with other earnings and revenues of the Municipal Water System defined as Gross Revenue) or held in a special account for the purpose of paying a rebate to the United States Government under the Code.

"**Independent Consulting Engineer**" means either (1) an independent licensed professional engineer experienced in the design, construction or operation of municipal utilities

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of comparable size and character to the Municipal Water System, or (2) an independent certified public accountant or other professional consultant experienced in the development of rates and charges for municipal utilities of comparable size and character to the Municipal Water System.

"Letter of Representations" means, for each series of Bonds, the Letter of Representations relating to the Bonds to be delivered by the City to DTC.

"Maximum Annual Debt Service" means at the time of calculation, the maximum amount of Annual Debt Service that will mature or come due in the current year or any future year on the Parity Bonds.

"Municipal Water System" means the water system of the City as it now exists, and all additions thereto and betterments and extensions thereof at any time made, together with any utility systems of the City hereinafter combined with the Municipal Water System. The Municipal Water System shall not include any water supply or other utility system service or other facilities that may be created, acquired or constructed by the City as a separate utility system as provided in Section 21 of this ordinance.

"Net Revenue of the Municipal Water System" or **"Net Revenue"** means the Gross Revenue less Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all expenses incurred by the City in causing the Municipal Water System of the City to be operated and maintained in good repair, working order and condition, including without limitation: deposits, premiums, assessments or other payments for insurance, if any, on the Municipal Water System; payments into pension funds; State-imposed taxes; amounts due under Contract Resource Obligations (but only at the times described in Section 22 of this ordinance); payments made to any other person or entity for the receipt of water supply or transmission or other commodity or service; and payments with respect to any other expenses of the Municipal Water System that are properly treated as operation and maintenance expenses under generally accepted accounting principles applicable to municipal corporations. Operation and Maintenance Expenses does not include any

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depreciation or taxes levied or imposed by the City, or payments to the City in lieu of taxes, or capital additions or capital replacements to the Municipal Water System.

"Outstanding Parity Bonds" means the then-outstanding 1997 Bonds, 1998 Bonds, 1999A, 1999B Bonds, 2001 Bonds, 2003 Bonds and 2004 Bonds, as described in Exhibit A.

"Parity Bonds" means the Outstanding Parity Bonds, the Bonds, and any Future Parity Bonds.

"Parity Bond Authorizing Ordinance" means the ordinance and/or resolution of the City that authorizes the issuance and sale and establishes the terms of a particular issue of Parity Bonds and other matters relating to the same plan of finance.

"Parity Payment Agreement" means a Payment Agreement under which the City's payment obligations are expressly stated to constitute a charge and lien on the Net Revenue of the Municipal Water System equal in rank with the charge and lien upon such revenue required to be paid into the Bond Account to pay interest on Parity Bonds.

"Payment Agreement" means a written agreement, for the purpose of managing or reducing the City's exposure to fluctuations or levels of interest rates or for other interest rate, investment, asset or liability management purposes, entered into on either a current or forward basis by the City and a Qualified Counterparty as authorized by any applicable laws of the State in connection with, or incidental to, the issuance, incurring or carrying of particular bonds, notes, bond anticipation notes, commercial paper, or other obligations for borrowed money, or lease, installment purchase or other similar financing agreements or certificates of participation therein, that provides for an exchange of payments based on interest rates, ceilings or floors on such payments, options on such payments, or any combination thereof or any similar device.

"Payment Agreement Payments" means the amounts periodically required to be paid by the City to the Qualified Counterparty pursuant to a Payment Agreement.

"Payment Agreement Receipts" means the amounts periodically required to be paid by the Qualified Counterparty to the City pursuant to a Payment Agreement.

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"Principal and Interest Subaccount" means the account of that name created in the Bond Account for the payment of the principal of and interest and mandatory redemption requirements, if any, on the Parity Bonds.

"Qualified Counterparty" means a party (other than the City or a party related to the City) who is the other party to a Payment Agreement and (1)(a) whose senior debt obligations are rated in one of the three highest rating categories of each of the Rating Agencies (without regard to any gradations within a rating category) or (b) whose obligations under the Payment Agreement are guaranteed for the entire term of the Payment Agreement by a bond insurer or other institution which has been assigned a credit rating in one of the two highest rating categories of each of the Rating Agencies, and (2) who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

"Rate Stabilization Account" means the account of that name created in the Water Fund pursuant to Ordinance 116705 and redesignated for accounting purposes as the Revenue Stabilization Subfund of the Water Fund pursuant to Ordinance 120875.

"Rating Agencies" means Moody's Investors Service, Inc., and Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., and their successors, and any other nationally-recognized securities rating agency or agencies rating Parity Bonds at the request of the City.

"RBI" means The Bond Buyer Revenue Bond Index or comparable index, or, if no comparable index can be obtained, 80% of the interest rate for actively traded 30-year United States Treasury obligations.

"Refundable Bonds" means, collectively, all or a portion of any Outstanding Parity Bonds and the Bonds, and all or a portion of those Future Parity Bonds that have been designated as Refundable Bonds in the applicable Parity Bond Ordinance.

"Refunded Bonds" means those Refundable Bonds included in a Refunding Plan.

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"Refunded Bond Legislation" means the respective Parity Bond Authorizing Ordinances pursuant to which the Refunded Bonds were issued.

"Refunding Plan" means, with respect to the issuance of each series of Bonds, the refunding of all or a portion of the Refundable Bonds through the issuance of such series, as more particularly described in the Bond Resolution.

"Refunding Trust Agreement" means, with respect to each series of Bonds, a refunding trust or escrow agreement between the City and a Refunding Trustee, dated as of the Closing Date of such series, providing for the safekeeping of certain Bond proceeds and the refunding of all or a portion of the Refundable Bonds.

"Refunding Trustee" means, for each series of Bonds, the Director of Finance, or the trustee or escrow agent designated by the Director of Finance, consistent with the Refunded Bond Legislation and any applicable agreements with Bond Insurers.

"Registered Owner" means the person shown on the Bond Register as the owner of one or more Bonds.

"Reserve Insurance" means any bond insurance, letter of credit, guaranty, surety bond or similar credit enhancement device obtained by the City equal to part or all of the Reserve Requirement for any Parity Bonds which is issued by an institution which has been assigned a credit rating at the time of issuance of the device in one of the two highest rating categories of each of the Rating Agencies.

"Reserve Requirement" means as of any date the lesser of Maximum Annual Debt Service or 125% of Average Annual Debt Service on the Parity Bonds.

"Reserve Subaccount" means the account of that name created in the Bond Account for the purpose of securing the payment of the principal of and interest on the Parity Bonds.

"Securities Depository" means any one of the following registered securities depositories which has been designated by the City: (i) DTC; (ii) Midwest Securities Trust Company, Chicago, Illinois; (iii) Philadelphia Depository Trust Company, Philadelphia,

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Pennsylvania; or (iv) such other securities depositories as the City may designate in a certificate of the City delivered to the Bond Registrar.

"**State**" means the State of Washington.

"**State Auditor**" means the office of the Auditor of the State or such other department or office of the State authorized and directed by State law to make audits.

"**Term Bond Maturity Year**" means any calendar year in which Term Bonds are scheduled to mature.

"**Term Bonds**" means those Parity Bonds designated as such in the applicable Parity Bond Authorizing Ordinance.

"**ULID**" means a utility local improvement district.

"**ULID Assessments**" means all assessments levied and collected in a ULID of the City created for the acquisition or construction of additions to and betterments and extensions of the Municipal Water System if (and only if) those assessments are pledged to be paid into the Bond Account, not including any prepaid assessments paid into a construction fund or account. ULID Assessments shall include installments thereof and any interest or penalties thereon.

"**Undertaking**" means the City's undertaking in the Bond Resolution to provide certain disclosure as provided by Section 24.

"**Variable Interest Rate**" means any variable interest rate or rates to be borne by any Parity Bonds. The method of computing such a variable interest rate shall be as specified in the applicable Parity Bond Authorizing Ordinance (including a Bond Resolution), which ordinance or resolution also shall specify either (1) the particular period or periods of time or manner of determining such period or periods of time for which each value of such variable interest rate shall remain in effect or (2) the time or times upon which any change in such variable interest rate shall become effective. A Variable Interest Rate may, without limitation, be based on the interest rate on certain bonds or may be based on interest rate, currency, commodity or other indexes.

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"Variable Interest Rate Bonds" means, for any period of time, any Parity Bonds that bear a Variable Interest Rate during that period, except that Parity Bonds shall not be treated as Variable Interest Rate Bonds if the net economic effect of interest rates on particular Parity Bonds of an issue and interest rates on other Parity Bonds of the same issue, as set forth in the applicable Parity Bond Authorizing Ordinance, or the net economic effect of a Payment Agreement with respect to particular Parity Bonds, in either case is to produce obligations that bear interest at a fixed interest rate; and Parity Bonds with respect to which a Payment Agreement is in force shall be treated as Variable Interest Rate Bonds if the net economic effect of the Payment Agreement is to produce obligations that bear interest at a Variable Interest Rate.

"Water Fund" means the fund of that name into which is paid the Gross Revenue of the Municipal Water System.

Section 2. Authorization and Description of Bonds. The City is authorized to issue Bonds for the purpose of providing all or a part of the funds with which to pay the cost of refunding, defeasing, or refunding and defeasing, the Refunded Bonds and to pay all or part of the costs of issuing and selling the Bonds. The Bonds may be issued in one or more series at any time on or before December 31, 2015, and may be combined with other Parity Bonds authorized separately. The maximum principal amount of any series of the Bonds shall not exceed 125% of the then-outstanding principal amount of the Refundable Bonds refunded by that series of Bonds.

The Bonds shall be dated and have such year and series or other designation as determined by the Director of Finance or as specified by the Bond Resolution; shall be in the denomination of $5,000 or any integral multiple thereof within a single maturity or such other denomination specified in the Bond Resolution; and shall be numbered separately, in the manner and with any additional designation as the Bond Registrar deems necessary for the purpose of identification. The Bonds shall mature on the dates and in the amounts and bear interest payable on the dates and at the rates specified in the Bond Resolution, except that the net interest cost shall not exceed a weighted average rate of ten percent per annum. All or some of the Bonds

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may be Term Bonds, as specified by the Bond Resolution. The final maturity of any series of Bonds shall not exceed 40 years from the issue date for that series.

Section 3. Bond Resolution. With respect to each series of Bonds, the City Council may adopt the Bond Resolution and in that resolution may provide for the matters described in this ordinance, including the manner of sale and delivery of and payment for the Bonds, the refunding of the Refunded Bonds, and such other matters that the City Council deems necessary and appropriate to carry out the purposes of this ordinance. Once adopted, the Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

For each series of Bonds, the Bond Resolution may provide for Bond Insurance or Reserve Insurance, and conditions or covenants relating thereto, including additional terms, conditions and covenants relating to the Bonds that are required by the bond insurer or letter of credit provider and are consistent with the provisions of this ordinance, including but not limited to restrictions on investments and requirements of notice to and consent of the bond insurer or letter of credit provider.

For each series of Bonds, the Bond Resolution may approve and authorize the execution and delivery on behalf of the City of any contracts consistent with the provisions of this ordinance for which the City's approval is necessary or to which the City is a party and that are related or incidental to the initial issuance and sale of the Bonds, the initial establishment of the interest rate or rates on the Bonds and any redemption of the Bonds, including but not limited to Payment Agreements and similar contracts for such purposes.

The Bond Resolution for each series of Bonds shall identify the Refunded Bonds to be refunded by that series, shall establish the terms and conditions upon which the Refunded Bonds are to be refunded, and shall confirm the Director of Finance as, or the Director of Finance's appointment of, the Refunding Trustee. The City Council may specify in the Bond Resolution the amount, if any, from the proceeds of or accrued interest on the Bonds to be deposited into specified funds, subfunds, accounts and subaccounts. In the absence of such a determination and

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specification in the Bond Resolution, the Director of Finance may make such determination and specification.

Section 4. <u>Allocation of the Bonds to the Refunded Bonds</u>. With respect to each series of Bonds, the City Council shall, by the Bond Resolution, provide for the allocation of that series of Bonds to the various series of the Refunded Bonds in a manner consistent with the Code. Such allocation shall be reflected in schedules attached to the Bond Resolution.

Section 5. <u>Registration and Transfer or Exchange of Bonds</u>. The Bonds shall be issued only in registered form as to both principal and interest and recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the Registered Owner of each Bond and the principal amount and number of each of the Bonds held by each Registered Owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same series, interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Registered Owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal or interest payment or redemption date (or other record date established by the Bond Resolution).

The City appoints DTC as initial Securities Depository for the Bonds. For so long as DTC is the Securities Depository for the Bonds, DTC or its nominee shall be deemed to be the Registered Owner of the Bonds for all purposes hereunder, and all references in this ordinance or the Bond Resolution to the Registered Owners of the Bonds shall mean DTC or its nominee and shall not mean the owners of any beneficial interests in the Bonds. Payments of principal of, premium, if any, and interest on all outstanding Bonds registered in the name of the nominee of DTC, or its registered assign, shall be made as provided in the Letter of Representations.

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Bonds executed and delivered in fully immobilized form shall be executed and delivered in the form of one fully-registered immobilized certificate for each series and maturity of the Bonds representing the aggregate principal amount of the Bonds of that series and maturity, which Bonds shall (except as provided below for the discontinuation or substitution of Securities Depository) be registered in the name of the Securities Depository or its nominee. For so long as DTC serves as Securities Depository for the Bonds, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC; however, if DTC shall request that the Bonds be registered in the name of a different nominee, the Bond Registrar shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such other nominee or nominees of DTC. No person other than DTC or its nominee shall be entitled to receive from the City or the Bond Registrar any Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof, unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register, in connection with discontinuing the book entry system as provided below or otherwise.

For so long as the Bonds are registered in the name of DTC or any nominee thereof, all payments of the principal of, or premium, if any, or interest with respect to the Bonds shall be made to DTC or its nominee in immediately available funds on the dates provided for such payments under this ordinance and the Bond Resolution and at such times and in the manner provided in the Letter of Representations. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the City or the Bond Registrar with respect to the principal of, premium, if any, or interest with respect to the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds of any series and maturity, the Bond Registrar shall not require surrender by DTC or its nominee of the Bonds so redeemed, and DTC or its nominee may retain such Bonds and make an appropriate notation thereon as to the amount of such partial redemption. DTC shall deliver to the Bond Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the

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Bond Registrar shall be conclusive as to the amount of the Bonds of such series and maturity that have been redeemed.

All transfers of beneficial ownership interests in Bonds registered in the name of DTC or its nominee shall be effected by the procedures of DTC's participants and/or indirect participants for recording and transferring the ownership of beneficial interests in bonds.

The City and the Bond Registrar may treat DTC (or its nominee) as the sole and exclusive Registered Owner of the Bonds registered in its name for the purposes of payment of the principal of, premium, if any, or interest with respect to those Bonds, selecting Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners under this ordinance or the Bond Resolution, registering the transfer of Bonds, obtaining any consent or other action to be taken by Registered Owners of Bonds and for all other purposes whatsoever; and the City and the Bond Registrar shall not be affected by any notice to the contrary. The City and the Bond Registrar shall not have any responsibility or obligation to any direct or indirect DTC participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the Bond Register as being a Registered Owner of Bonds, with respect to: (i) the Bonds; (ii) any records maintained by DTC or any such participant; (iii) the payment by DTC or any such direct or indirect participant of any amount in respect of the principal of, premium, if any, or interest with respect to the Bonds; (iv) any notice which is permitted or required to be given to Registered Owners of Bonds under this ordinance or the Bond Resolution; (v) the selection by DTC or any such direct or indirect participant of any person to receive payment in the event of a partial redemption of the Bonds; or (vi) any consent given or other action taken by DTC as Registered Owner of the Bonds.

For so long as the Bonds are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Registered Owners of such Bonds under this

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ordinance or the Bond Resolution shall be given to DTC as provided in the Letter of Representations.

In connection with any notice or other communication to be provided to Registered Owners pursuant to this ordinance or the Bond Resolution by the City or the Bond Registrar with respect to any consent or other action to be taken by Registered Owners of the Bonds, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; however, the City or the Bond Registrar may establish a special record date for such consent or other action and shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent practical.

Any successor Bond Registrar, in its written acceptance of its duties under this ordinance and the Bond Resolution, shall agree to take any actions necessary from time to time to comply with the requirements of any applicable Letter of Representations.

The book-entry system for registration of the ownership of the Bonds delivered in fully immobilized form may be discontinued at any time if: (i) after notice to the City and the Bond Registrar, DTC determines to resign as Securities Depository for the Bonds; or (ii) after notice to DTC and the Bond Registrar, the City determines that a continuation of the system of book-entry transfers through DTC (or through a successor Securities Depository) is not in the best interests of the City. In each of such events (unless, in the case described in clause (i) above, the City appoints a successor Securities Depository), the Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the City or the Bond Registrar for the accuracy of such designation. Whenever DTC requests the City and the Bond Registrar to do so, or whenever the City requests DTC and the Bond Registrar to do so after the determination by the City to replace DTC with a successor Securities Depository, the City and the Bond Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another Securities Depository to maintain custody of certificates evidencing the Bonds.

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Section 6. Mutilated, Lost, Stolen and Destroyed Bonds. In case any Bonds issued hereunder shall become mutilated or be destroyed, stolen or lost, the City may, if not then prohibited or otherwise required by law, cause to be executed and delivered a new Bond of like amount, interest rate, maturity date, series and tenor in exchange and substitution for and upon cancellation of such mutilated Bonds, or in lieu of and in substitution for such destroyed, stolen or lost Bonds, upon payment by the Registered Owner thereof of the reasonable expenses and charges of the City and the Bond Registrar in connection therewith, and in the case of a Bond destroyed, stolen or lost, the filing with the Bond Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and furnishing the City and the Bond Registrar with indemnity satisfactory to each of them. If the mutilated, destroyed, stolen or lost Bond already has matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment. If the provisions of State law at any time differ from the provisions of this Section 6 with respect to the requirements or procedures for replacing or otherwise handling mutilated, lost, stolen or destroyed Bonds, then the provisions of State law shall prevail.

Section 7. Payment of Bond Principal and Interest. Principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts mailed by the Bond Registrar on the interest payment date to the Registered Owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date (or other record date established by the Bond Resolution) (the "Record Date") or, at the request of a Registered Owner of $1,000,000 or more in aggregate principal amount of Bonds, by wire transfer to an account in the United States designated in writing by such Registered Owner prior to the Record Date. Principal of and premium, if any, on the Bonds shall be payable upon presentation and surrender of the Bonds by the Registered Owners at either of the principal corporate trust office or offices of the Bond Registrar at the option of the Registered Owners. Notwithstanding the foregoing, payment

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of any Bonds registered in the name of DTC or its nominee shall be made in accordance with the Letter of Representations.

The Bonds shall be payable solely out of the Bond Account and shall not be general obligations of the City.

Section 8. Redemption and Open Market Purchase of Bonds.

(a) Optional Redemption. All or some of the Bonds may be subject to redemption at the option of the City at the times and on the terms set forth in the Bond Resolution.

(b) Mandatory Redemption. The City shall redeem any Term Bonds, if not redeemed under the optional redemption provisions set forth in the Bond Resolution or purchased in the open market under the provisions set forth below, by lot (or in such other manner as the Bond Registrar shall determine) at par plus accrued interest on the dates and in the years and principal amounts as set forth in the Bond Resolution.

If the City redeems Term Bonds under the optional redemption provisions set forth in the Bond Resolution or purchases Term Bonds in the open market as set forth below, the Term Bonds so redeemed or purchased (irrespective of their redemption or purchase price) shall be credited at the par amount thereof against the remaining mandatory redemption requirements in a manner to be determined by the Director of Finance or, if no such determination is made, on a pro-rata basis.

(c) Partial Redemption. Whenever less than all of the Bonds of a single series and maturity are to be redeemed, the Bond Registrar shall select the Bonds or portions thereof to be redeemed from the Bonds of that series and maturity by lot, or in such other manner as the Bond Registrar shall determine, except that, for so long as the Bonds are registered in the name of DTC or its nominee, DTC shall select the Bonds or portions thereof to be redeemed in accordance with the Letter of Representations. In no event shall any Bond be outstanding in a principal amount that is not an authorized denomination.

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Portions of the principal amount of any Bond, in integral amounts of $5,000, may be redeemed, unless otherwise provided in the Bond Resolution. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the Registered Owner, without charge therefor, a new Bond (or Bonds, at the option of the Registered Owner) of the same series, maturity and interest rate in any of the denominations authorized by the Bond Resolution in the aggregate total principal amount remaining unredeemed.

(d) **Open Market Purchase.** The City reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase. The principal amount of Term Bonds purchased pursuant to this Section 8 shall be credited at the par amount thereof against the next mandatory redemption requirement, or as otherwise directed by the Director of Finance.

(e) **Bonds to be Canceled.** All Bonds purchased or redeemed under this Section 8 shall be canceled.

Section 9. Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Registered Owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed by the Bond Registrar within the same period, postage prepaid, to each of the Rating Agencies at their offices in New York, New York, to any Bond Insurer for the Bonds, and to such other persons and with such additional

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information as the Director of Finance shall determine or as specified in the Bond Resolution, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 10. Failure to Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, principal of, premium, if any and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Account and the Bond has been called for payment by giving notice of that call to the Registered Owner of each of those unpaid Bonds.

Section 11. Form and Execution of Bonds. The Bonds shall be typed, photocopied, printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance, the Bond Resolution and State law, shall be signed by the Mayor of The City of Seattle and Director of Finance, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in substantially the following form (with the designation, year, and series of the Bonds completed consistent with this ordinance), manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered The City of Seattle, Washington, Water System Refunding Revenue Bonds, [Year] [Series], described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENCY
Bond Registrar

By: _____
Authorized Signer

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The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 12. <u>Bond Registrar</u>. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and SMC Chapter 5.10 establishing a system of registration for the City's bonds and obligations, as that chapter now exists or may be amended.

The City reserves the right in its discretion to appoint special paying agents, registrars or trustees in connection with the payment of some or all of the principal of or interest on the Bonds. If a new Bond Registrar is appointed by the City, notice of the name and address of the new Bond Registrar shall be mailed to the Registered Owners of the Bonds. The notice may be mailed together with the next interest payment due on the Bonds, but, to the extent practicable, shall be mailed not less than 15 days prior to a maturity date of the principal or a mandatory redemption date of any Bond.

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The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the Registered Owner of Bonds 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 members of, or in any other capacity with respect to, any committee formed to protect the rights of the Registered Owners of the Bonds.

Section 13. <u>Bond Account</u>. Ordinance 116705 created the Water Revenue Bond Account (the "Bond Account") in the Water Fund and further divided the Bond Account into two subaccounts: the Principal and Interest Subaccount and the Reserve Subaccount. So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Bond Account all ULID Assessments on their collection (except for ULID Assessments deposited in a construction account) and, out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(a) Into the Principal and Interest Subaccount (i) upon receipt thereof, the accrued interest, if any, received by the City from the purchaser of the Bonds, and (ii) on or before each interest or principal and interest payment date of any Parity Bonds at least an amount which, together with other money on deposit therein, will be sufficient to pay the interest, or principal and interest, to become due and payable on the Parity Bonds on that payment date, including any Parity Bonds subject to mandatory redemption on that date, and net payments due on Parity Payment Agreements; and

(b) Into the Reserve Subaccount, in approximately equal annual payments, amounts necessary to fund the Reserve Requirement within five years from the date of issuance of such Parity Bonds after taking into account the capitalization of all or any part of the Reserve Requirement. The City may provide all or any part of the Reserve Requirement through Reserve Insurance, and the amount available to be drawn upon under that Reserve Insurance shall be credited against the Reserve Requirement, subject to the following:

The Reserve Insurance shall not be cancelable on less than three years' notice. On receipt of a notice of cancellation of any Reserve Insurance or upon notice that the entity providing the Reserve Insurance no longer meets the requirements specified herein, the City shall substitute Reserve Insurance in the amount required to make up the deficiency created in the Reserve Subaccount or in the alternative shall create a special account in the Water Fund and deposit therein, on or before the 25th day of each of the 36 succeeding calendar months (commencing with the 25th day of the calendar month next following the date of

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the notice) 1/36th of the amount sufficient, together with other money and investments on deposit in the Reserve Subaccount, to equal the Reserve Requirement in effect as of the date the cancellation or disqualification of the entity becomes effective. The required amounts shall be deposited in that special account from money in the Water Fund after making provision for payment of Operation and Maintenance Expenses and for required payments into the Bond Account. Amounts on deposit in that special account shall not be available to pay debt service on Parity Bonds or for any other purpose of the City, and shall be transferred to the Reserve Subaccount on the effective date of any cancellation of a Reserve Insurance to make up all or part of the deficiency caused thereby. Amounts in that special account or in the Reserve Subaccount may be transferred back to the Water Fund and used for any purpose if and when qualifying Reserve Insurance is obtained.

Except for withdrawals therefrom and payments over time as authorized herein, the Reserve Subaccount shall be maintained at the Reserve Requirement, as it is adjusted from time to time, at all times so long as any Parity Bonds are outstanding. For the purpose of determining the amount credited to the Reserve Subaccount, obligations in which money in the Reserve Subaccount has been invested shall be valued at the greater of cost or accreted value.

In the event that there shall be a deficiency in the Principal and Interest Subaccount to meet maturing installments of either principal or interest or mandatory redemption requirements, as the case may be, that deficiency shall be made up from the Reserve Subaccount by the withdrawal of cash therefrom for that purpose. Any deficiency created in the Reserve Subaccount by reason of any such withdrawal shall within 12 months be made up from ULID Assessments and Net Revenue available after making necessary provisions for the required payments into the Principal and Interest Subaccount.

The money in the Reserve Subaccount may be applied to the payment of the last outstanding bonds payable out of the Bond Account, except that any money in the Reserve Subaccount (including investment earnings) in excess of the Reserve Requirement may be withdrawn and deposited in the Principal and Interest Subaccount and spent for the purpose of retiring Parity Bonds or may be deposited in any other fund or account and spent for any other lawful Municipal Water System purpose. When the total amount in the Bond Account (including investment earnings) shall equal the total amount of principal and interest for all

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Parity Bonds to the last maturity thereof, no further payment need be made into the Bond Account.

The City may provide for the purchase, redemption or defeasance of any Parity Bonds by the use of money on deposit in any subaccount in the Bond Account as long as the money remaining in those subaccounts is sufficient to satisfy the required deposits in those subaccounts for the remaining Parity Bonds.

All money in the Bond Account may be kept in cash or invested in legal investments maturing, for investments in the Principal and Interest Subaccount, not later than the dates when the funds are required for the payment of principal of or interest on the Parity Bonds and, for investments in the Reserve Subaccount, maturing (or subject to redemption, or repurchase and redemption, at the option of the City) on a date not later than 15 years from the date of investment.

Earnings from investments in the Principal and Interest Subaccount shall be deposited in that account. Earnings from investments in the Reserve Subaccount shall be deposited in that account. Notwithstanding the provisions for the deposit of earnings, any earnings that are subject to federal arbitrage rebate requirements may be withdrawn from the Bond Account for deposit into a separate fund or account created for the purpose of compliance with those rebate requirements.

The City may create sinking fund accounts or other accounts in the Bond Account for the payment or securing the payment of Parity Bonds as long as the maintenance of such accounts does not conflict with the rights of the owners of such Parity Bonds.

Section 14. <u>Rate Stabilization Account</u>. The Rate Stabilization Account has been created in the Water Fund. The City may at any time, as determined by the City and as consistent with Section 18 of this ordinance, deposit in the Rate Stabilization Account Gross Revenue and any other money received by the Municipal Water System and available to be used therefor. The City may withdraw any or all of the money from the Rate Stabilization Account

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for inclusion in the Adjusted Gross Revenue for any fiscal year of the City. Such deposits or withdrawals may be made up to and including the date 90 days after the end of the fiscal year for which the deposit or withdrawal will be included as Adjusted Gross Revenue.

No deposit of Gross Revenue 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 15. Finding as to Sufficiency of Gross Revenue. A series of Bonds will be issued only if the City Council finds and determines by the Bond Resolution (i) that the Gross Revenue and benefits to be derived from the operation and maintenance of the Municipal Water System of the City at the rates to be charged from time to time for water and other services and commodities from the Municipal Water System consistent with Section 17(b) hereof, will be sufficient to meet all Operation and Maintenance Expenses and to permit the setting aside into the Bond Account out of the Gross Revenue of amounts sufficient to pay the principal of and interest on the Bonds and any mandatory redemption requirements when due, and (ii) that in fixing the amounts to be paid into the Bond Account the City has exercised due regard for Operation and Maintenance Expenses, and has not bound and obligated itself to set aside and pay into the Bond Account a greater amount or proportion of the Gross Revenue than in the judgment of the City will be available over and above the Operation and Maintenance Expenses.

Section 16. Pledge of Net Revenue and Lien Position. The Net Revenue of the Municipal Water System and all money and investments held in the Bond Account and the Rate Stabilization Account is pledged to the payment of the Parity Bonds and to make payments into the Reserve Subaccount required by this ordinance, the Bond Resolution and Parity Bond Authorizing Ordinances, and this pledge shall constitute a lien and charge upon the Net Revenue prior and superior to any other charges whatsoever.

Section 17. Parity Bond Covenants. The City covenants and agrees with the owner of each Bond at any time outstanding, as follows:

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(a) **Operation and Maintenance.** It will at all times maintain, preserve and keep the properties of the Municipal Water System in good repair, working order and condition, will make all necessary and proper additions, betterments, renewals and repairs thereto, and improvements, replacements and extensions thereof so that at all times the business carried on in connection therewith will be properly and advantageously conducted, and will at all times operate or cause to be operated the properties of the Municipal Water System and the business in connection therewith in an efficient manner and at a reasonable cost.

(b) **Establishment and Collection of Rates and Charges.** It will establish, maintain and collect rates and charges for services and facilities provided by the Municipal Water System which will be fair and equitable, and will adjust those rates and charges from time to time so that:

(1) The Gross Revenue will be sufficient to (i) pay all Operation and Maintenance Expenses, (ii) pay when due all amounts that the City is obligated to pay into the Bond Account and the subaccounts therein, and (iii) pay all taxes, assessments or other governmental charges lawfully imposed on the Municipal Water System or the 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 the Gross Revenue by law or contract; and

(2) The Adjusted Net Revenue of the Municipal Water System in each fiscal year will be at least equal to the Coverage Requirement; and

(3) Except to aid the poor or infirm and for fire-fighting purposes, it will not furnish or supply or permit the furnishing or supplying of any service or facility in connection with the operation of the Municipal Water System free of charge to any person, firm or corporation, public or private.

The failure of the City to comply with subparagraphs (1) and (2) of this paragraph (b) shall not be an Event of Default if the City promptly retains an Independent Consulting Engineer to recommend to the City Council adjustments in the rates of the Municipal Water System

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necessary to meet the requirements of those subparagraphs and if the City Council adopts the recommended modifications within 180 days of the date the failure became known to the City Council.

(c) **Sale, Transfer or Disposition of the Municipal Water System.** It will sell, transfer or otherwise dispose of any of the works, plant, properties, facilities or other part of the Municipal Water System or any real or personal property comprising a part of the Municipal Water System only upon approval by ordinance and 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 Municipal Water System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Municipal Water System or are no longer necessary, material or useful to the operation of the Municipal Water System; 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 three percent of the total assets of the Municipal Water System; 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 fair market value of the portion of the Municipal Water System transferred. As used in this subparagraph, "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 the transfer shall be used (i) to promptly redeem, or irrevocably set aside for the redemption of, Parity Bonds, and/or (ii) to provide for part of the cost of additions to and

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betterments and extensions of the Municipal Water System. Before any such transfer under this subparagraph (3), the City must obtain a certificate of an Independent Consulting Engineer to the effect that in his or her professional opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining Municipal Water System will retain its operational integrity and the Adjusted Net Revenue of the Municipal Water System will be at least equal to the Coverage Requirement during the five fiscal years following the fiscal year in which the transfer is to occur, taking into account, (w) the reduction in revenue resulting from the transfer; (x) the use of any proceeds of the transfer for the redemption of Parity Bonds, (y) the Independent Consulting Engineer's estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Municipal Water System financed in part by the proposed portion of the proceeds of the transfer, and (z) any other adjustment permitted in the preparation of a certificate under Section 19(f)(2) of this ordinance. Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.

The amount required to be paid to the City may be reduced by any "equity credits" or similar amounts based on prior capital contributions or other payments to the City which, under any contract between the City and the transferee, are allowed as a setoff against the transfer price that would otherwise be payable to the City.

Upon the redemption or defeasance of all then outstanding 1997 Bonds, 1998 Bonds, 1999A Bonds, 1999B Bonds, 2001Bonds, 2003 Bonds, and 2004 Bonds, the City may sell, transfer or otherwise dispose of any of the works, plant, properties, facilities or other part of the Municipal Water System or any real or personal property comprising a part of the Municipal Water System 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, a "transfer") if the facilities or property transferred are not material to the operation of the Municipal Water System, or shall have become unserviceable, inadequate,*

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obsolete or unfit to be used in the operation of the Municipal Water System or are no longer necessary, material or useful to the operation of the Municipal Water System; 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 five percent (5%) of the total assets of the Municipal Water System; or*

(3) *The City in its discretion may carry out such a transfer if the proceeds from such transfer are used to acquire new useful operating facilities or properties of the Municipal Water System, or are used to retire outstanding Parity Bonds or other revenue obligations of the Municipal Water System, if, at the time of such transfer, the City has on file a a certificate of both the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of either office) demonstrating that in their opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining facilities of the Municipal Water System will retain their operational integrity and, based on the financial statements for the most recent fiscal year available, the proposed transfer would not prevent the Municipal Water System from complying with the Coverage Requirement during the five fiscal years following the fiscal year in which the transfer is to occur. The certificate shall take into account, (A) the reduction in revenue and expenses, if any, resulting from the transfer; (B) the use of any proceeds of the transfer for the redemption of Parity Bonds, (C) the estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Municipal Water System financed in part by the proposed portion of the proceeds of the transfer, and (D) any other adjustment permitted in the preparation of a certificate under Section 19(f)(2) of this ordinance. Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.*

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(d) **Liens Upon the Municipal Water System.** Except as otherwise provided in this ordinance, it will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the Gross Revenue 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 which, if unpaid, might become a lien or charge upon the Gross Revenue or any part thereof, prior or superior to, or on a parity with, the lien of the Parity Bonds, or which might impair the security of the Parity Bonds.

(e) **Books and Accounts.** It will keep proper books, records and accounts with respect to the operations, income and expenditures of the Municipal Water System in accordance with generally accepted accounting practices relating to the municipal utilities and any applicable rules and regulations prescribed by the State, and will cause those books, records and accounts to be audited on an annual basis by the State Auditor (or, if such audit is not made by the State Auditor within 270 days after the close of any fiscal year of the City, by a certified public accountant selected by the City). It will prepare annual financial and operating statements as soon as practicable after the close of each fiscal year showing in reasonable detail the financial condition of the Municipal Water System as of the close of the previous year, and the income and expenses for such year, including the amounts paid into the Bond Account and into any and all special funds or accounts created pursuant to the provisions of 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 Municipal Water System. Such statements shall be sent to the owner of any Parity Bonds upon written request therefor being made to the City. The City may charge a reasonable cost for providing such financial statements.

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(f) **Collection of Delinquent Accounts.** On at least an annual basis, it will determine all accounts that are delinquent and will take such actions as the City determines are reasonably necessary to enforce payment of those delinquent accounts.

(g) **Maintenance of Insurance.** It at all times will carry fire and extended coverage, public liability and property damage 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 Municipal Water System as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or it will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the City, to protect the Municipal Water System and the owners of the Parity Bonds against loss.

(h) **Condemnation Awards and Insurance Proceeds.** If the City receives any condemnation awards or proceeds of an insurance policy in connection with any loss of or damage to any property of the Municipal Water System, it shall apply the condemnation award or insurance proceeds, in the City's sole discretion, either (i) to the cost of replacing or repairing the lost or damaged properties, (ii) to the payment, purchase or redemption of Parity Bonds, or (iii) to the cost of improvements to the Municipal Water System.

Section 18. Flow of Funds. All ULID Assessments shall be paid into the Bond Account as provided by this ordinance. The Gross Revenue of the Municipal Water System shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To pay the Operation and Maintenance Expenses;

(b) To pay interest on Parity Bonds and net payments on Parity Payment Agreements when due;

(c) To pay the principal of Parity Bonds as it comes due at maturity or as the principal is required to be paid pursuant to mandatory redemption requirements applicable to Term Bonds, and to make payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the Parity Bonds;

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(d) To make all payments required to be made into the Reserve Subaccount, all payments required to be made under any agreement relating to the provision of Reserve Insurance, and payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the payments required to be made into the Reserve Subaccount;

(e) To make all payments required to be made into any revenue bond, note, warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay or secure the payment of the principal of and interest on any revenue bonds, notes, warrants or other obligations of the City having a lien upon the revenue of the Municipal Water System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(f) To retire by redemption or purchase in the open market any outstanding revenue bonds or other revenue obligations of the Municipal Water System, to make necessary additional betterments, improvements and repairs to or extensions and replacements of the Municipal Water System, to make deposits into the Rate Stabilization Account, or for any other lawful Municipal Water System purposes.

The City may transfer any money from any funds or accounts of the Municipal Water System legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Bond Account.

Section 19. <u>Provisions for Future Parity Bonds</u>. The City reserves the right to issue Future Parity Bonds and to enter into Parity Payment Agreements for purposes of the Municipal Water System or to refund a portion of the Parity Bonds if the following conditions are met and complied with at the time of the issuance of those Future Parity Bonds or entering into the Parity Payment Agreement:

(a) There shall be no deficiency in the Bond Account and no Event of Default with respect to any Parity Bonds shall have occurred and be continuing.

(b) The Parity Bond Authorizing Ordinance shall provide that all assessments and interest thereon that may be levied in any ULID created for the purpose of paying, in whole or in part, the principal of and interest on those Future Parity Bonds, shall be paid directly into the Bond Account, except for any prepaid assessments permitted by law to be paid into a construction fund or account.

(c) The Parity Bond Authorizing Ordinance shall provide for the payment of the principal thereof and interest thereon out of the Bond Account.

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(d) The Parity Bond Authorizing Ordinance shall provide for the payment of amounts into the Bond Account to meet mandatory redemption requirements applicable to any Term Bonds to be issued and for regular payments to be made for the payment of the principal of such Term Bonds on or before their maturity, or, as an alternative, the mandatory redemption of those Term Bonds prior to their maturity date from money in the Principal and Interest Subaccount.

(e) The Parity Bond Authorizing Ordinance shall provide for the deposit into the Reserve Subaccount of (i) an amount, if any, necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds from Future Parity Bond proceeds or other money legally available, or (ii) Reserve Insurance or an amount plus Reserve Insurance necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds, or (iii) amounts necessary to fund the Reserve Requirement from ULID Assessments and Adjusted Net Revenue within five years from the date of issuance of those Future Parity Bonds, in five approximately equal annual payments.

(f) There shall be on file with the City either:

(1) a certificate of the Director of Finance demonstrating that during any twelve consecutive calendar months out of the immediately preceding 24 calendar months Adjusted Net Revenue was at least equal to the Coverage Requirement for all Parity Bonds plus the Future Parity Bonds proposed to be issued (and assuming that the debt service of the proposed Future Parity Bonds for that twelve-month period was the Average Annual Debt Service for those proposed bonds); or

(2) a certificate of both the Director of Finance and the Director of Seattle Public Utilities (who has succeeded to substantially all of the responsibilities of the Superintendent of the Municipal Water System), or any officer who succeeds to substantially all of the responsibilities of either office, that in their opinion the Adjusted Net Revenue for the five fiscal years next following the earlier of (A) the end of the period during which interest on those Future Parity Bonds is to be capitalized or, if no interest is capitalized, the fiscal year in which the Future Parity Bonds are issued, or (B) the date on which substantially all new facilities financed with those Future Parity Bonds are expected to commence operations, such Adjusted Net Revenue further adjusted as provided in paragraphs (i) through (iv) below, will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments:

(i) Any changes in rates in effect and being charged, or rates expected to be charged in accordance with a program of specific rates, rate levels or increases in overall rate revenue approved by ordinance or resolution;

(ii) Net revenue from customers of the Municipal Water System who have become customers during the 12 consecutive month period or thereafter, and their estimate of net revenue from

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any customers to be connected to the Municipal Water System who have paid the required connection charges, adjusted to reflect one year's net revenue from those customers;

(iii) Their estimate of net revenue from customers anticipated to be served by facilities or improvements financed in substantial part by those Future Parity Bonds (or additional Parity Bonds expected to be issued during the five-year period); and

(iv) Net revenue from any person, firm, corporation or municipal corporation under any executed contract for water or other utility service, which revenue was not included in the historical Net Revenue of the Municipal Water System.

If the Future Parity Bonds proposed to be issued are for the sole purpose of refunding Parity Bonds, no such coverage certification shall be required if the Adjusted Annual Debt Service on the Parity Bonds after the issuance of the Future Parity Bonds is not, for any year in which the Parity Bonds being refunded were outstanding, more than $5,000 over the Adjusted Annual Debt Service on the Parity Bonds prior to the issuance of those Future Parity Bonds.

Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds, money for the payment of which is not otherwise available, or revenue bonds that are a charge or lien upon the Gross Revenue subordinate to the charge or lien of the Parity Bonds, or from pledging the payment of ULID assessments into a bond redemption fund created for the payment of the principal of and interest on those junior lien bonds as long as such ULID assessments are levied for improvements constructed from the proceeds of those junior lien bonds.

Section 20. <u>Reimbursement Obligations</u>. If the City elects to meet the Reserve Requirement or any portion thereof through the use of Reserve Insurance or elects to secure any issue of Parity Bonds through the use of Bond Insurance, the City may contract with the entity providing such Reserve Insurance or Bond Insurance to the effect that the City's reimbursement obligation, if any, to such entity ranks on a parity of lien with the Parity Bonds.

If provided by the Bond Resolution, if the principal of, interest or mandatory redemption requirements due on the Bonds is paid by a Bond Insurer pursuant to a Bond Insurance policy, the Bonds shall not be considered paid by the City, and the covenants, agreements and other

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obligations of the City to the Registered Owners shall continue to exist and the Bond Insurer shall be subrogated to the rights of the Registered Owners.

Section 21. Separate Utility Systems. The City may create, acquire, construct, finance, own and operate one or more additional systems for water supply, transmission or other commodity or service. The revenue of that separate utility system shall not be included in the Gross Revenue of the Municipal Water System and may be pledged to the payment of revenue obligations issued to purchase, construct, condemn or otherwise acquire or expand the separate utility system. Neither the Gross Revenue nor the Net Revenue of the Municipal Water System shall be pledged by the City to the payment of any obligations of a separate utility system except (1) as a Contract Resource Obligation upon compliance with Section 22 hereof and/or (2) with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.

Section 22. Contract Resource Obligations. The City may at any time enter into one or more Contract Resource Obligations for the acquisition, from facilities to be constructed, of water supply, transmission or other commodity or service relating to the Municipal Water System. The City may determine that, and may agree under a Contract Resource Obligation to provide that, all payments under that Contract Resource Obligation (including payments prior to the time that water supply or transmission or other commodity or service is being provided, or during a suspension or after termination of supply or service) shall be Operation and Maintenance Expenses if the following requirements are met at the time such a Contract Resource Obligation is entered into:

(a) No Event of Default has occurred and is continuing.

(b) There shall be on file a certificate of an Independent Consulting Engineer stating that (i) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the supply or transmission rendered; (ii) the source of any new supply, and any facilities to be constructed to provide the supply or transmission, are sound from a water or other commodity supply or transmission planning standpoint, are technically and economically feasible in accordance with prudent utility practice, and are likely to provide supply or transmission no later than a date set forth in the Independent Consulting

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Engineer's certification; and (iii) the Adjusted Net Revenue (further adjusted by the Independent Consulting Engineer's estimate of the payments to be made in accordance with the Contract Resource Obligation) for the five fiscal years following the year in which the Contract Resource Obligation is incurred, as such Adjusted Net Revenue is estimated by the Independent Consulting Engineer in accordance with the provisions of and adjustments permitted in Section 19(f)(2) of this ordinance, will be at least equal to the Coverage Requirement.

Payments required to be made under Contract Resource Obligations shall not be subject to acceleration.

Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of water supply, transmission or other commodity or service from existing facilities and from treating those payments as Operation and Maintenance Expenses. Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of water supply, transmission or other commodity or service from facilities to be constructed and from agreeing to make payments with respect thereto, such payments constituting a lien and charge on Net Revenue subordinate to that of Parity Bonds.

Section 23. <u>Preservation of Tax Exemption for Interest on Bonds</u>. The City covenants that it will take all actions consistent with the terms of the Bonds, this ordinance and the Bond Resolution reasonably within its power and necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes and it will neither take any action nor make or permit any use of the proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes.

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

Section 24. <u>Continuing Disclosure</u>. The City shall undertake to provide for the benefit of holders of the Bonds disclosure of certain financial information and operating data of the type included in the final official statement for the Bonds, as well as disclosure of certain material

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events respecting the Bonds, in the manner and to the extent required by United States Securities and Exchange Commission Rule 15c2-12(b)(5). The particular terms of any such Undertaking shall be set forth in the Bond Resolution.

Section 25. Advance Refunding or Defeasance of Bonds. The City may issue advance refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay the principal of and interest on the Bonds, or such portion thereof included in a refunding or defeasance plan, as the same become due and payable and to redeem and retire, release, refund or defease the Bonds (the "Defeased Bonds") and to pay the costs of such refunding or defeasance. In the event that money and/or Government Obligations sufficient in amount, together with known earned income from the investments thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside irrevocably in a special fund for and pledged irrevocably to such redemption, retirement or defeasance (the "trust account"), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the Net Revenue and the funds and accounts pledged to the payment of such defeased Bonds, other than the right to receive the funds so set aside and pledged, thereafter shall cease and become void. Such owners thereafter shall have the right to receive payment of the principal of and interest or redemption price on the defeased Bonds from the trust account.

After the establishing and full funding of such a trust account, the City then may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine, subject only to the rights of the owners of any other Parity Bonds.

If the refunding plan provides that the defeased Bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding plan also provides that certain money and/or Government Obligations are pledged irrevocably for the prior redemption of the defeased Bonds included in that refunding plan, then

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only the debt service on the Bonds which 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 the Coverage Requirement for the issuance of Future Parity Bonds and the annual computation of the Coverage Requirement for determining compliance with the rate covenants.

Section 26. <u>Amendatory and Supplemental Ordinances</u>.

(a) This ordinance shall not be modified or amended in any respect subsequent to the initial issuance of the Bonds, except as provided in and in accordance with and subject to the provisions of this Section.

(b) The City, from time to time, and at any time, without the consent of or notice to the owners of the Bonds, may pass supplemental or amendatory ordinances as follows:

(1) To cure any formal defect, omission, inconsistency or ambiguity in this ordinance in a manner not adverse to the owner of any Parity Bond;

(2) To impose upon the Bond Registrar (with its consent) for the benefit of the owners of the Bonds any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with this ordinance as therefore in effect;

(3) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary or inconsistent with this ordinance as therefore in effect;

(4) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by this ordinance of any other money, securities or funds;

(5) To authorize different denominations of the Bonds and to make correlative amendments and modifications to this ordinance regarding exchangeability of Bonds of different

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authorized denominations, redemptions of portions of Bonds of particular authorized denominations and similar amendments and modifications of a technical nature;

(6) To modify, alter, amend or supplement this ordinance in any other respect which is not materially adverse to the owners of the Parity Bonds and which does not involve a change described in subsection (c) of this Section;

(7) Because of change in federal law or rulings, to maintain the exclusion from gross income of the interest on the Bonds from federal income taxation; and

(8) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are requested by a Bond Insurer or provider of Reserve Insurance and which are not materially adverse to the owners of the Parity Bonds.

Before the City shall adopt any such supplemental ordinance pursuant to this subsection (b), there shall have been delivered to the City and the Bond Registrar an opinion of Bond Counsel, stating that such supplemental ordinance is authorized or permitted by this ordinance and, upon the execution and delivery thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(c) (1) Except for any supplemental ordinance entered into pursuant to subsection (b) of this Section, subject to the terms and provisions contained in this subsection (c) and not otherwise, Registered Owners of not less than 60% in aggregate principal amount of the Parity Bonds shall have the right from time to time to consent to and approve the passage by the City of any supplemental ordinance deemed necessary or desirable by the City for the purpose of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this ordinance; except that, unless approved in writing by the Registered Owners of all Parity Bonds, nothing contained in this Section shall permit, or be construed as permitting:

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(i) A change in the times, amounts or currency of payment of the principal of or interest on any outstanding Parity Bond, or a reduction in the principal amount or redemption price of any outstanding Parity Bond or a change in the redemption price of any outstanding Parity Bond or a change in the method of determining the rate of interest thereon, or

(ii) A preference or priority of any Parity Bond or Bonds or any other bond or bonds, or

(iii) A reduction in the aggregate principal amount of Parity Bonds, the consent of the Registered Owners of which is required for any such supplemental ordinance.

(2) If at any time the City shall pass any supplemental ordinance for any of the purposes of this subsection (c), the Bond Registrar shall cause notice of the proposed supplemental ordinance to be given by first-class United States mail to all Registered Owners of the Parity Bonds, to any Bond Insurer, and to the Rating Agencies if the Bonds are rated by those agencies. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Bond Registrar for inspection by all Registered Owners of the Parity Bonds.

(3) Within two years after the date of the mailing of such notice, the City may adopt such supplemental ordinance in substantially the form described in such notice, but only if there shall have first been delivered to the Bond Registrar (i) the required consents, in writing, of the Registered Owners of the Parity Bonds, and (ii) an opinion of bond counsel stating that such supplemental ordinance is authorized or permitted by this ordinance and, upon the execution and delivery thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Parity Bonds.

(4) If Registered Owners of not less than the percentage of Parity Bonds required by this subsection (c) shall have consented to and approved the execution and delivery thereof as herein provided, no owner of the Parity Bonds shall have any right to object to the passage of such supplemental ordinance, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the

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passage thereof, or to enjoin or restrain the City or the Bond Registrar from passing the same or from taking any action pursuant to the provisions thereof.

(d) Upon the execution and delivery of any supplemental ordinance pursuant to the provisions of this Section, this ordinance shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City, the Bond Registrar and all owners of Parity Bonds, shall thereafter be determined, exercised and enforced under this ordinance subject in all respects to such modifications and amendments.

Section 27. Defaults and Remedies.

(a) Events of Default. The following shall constitute "Events of Default" with respect to the Bonds:

(1) If a default is made in the payment of the principal of or interest on any of the Bonds when the same shall become due and payable; or

(2) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City set forth in this ordinance or any covenants, conditions or agreements on the part of the City contained in any Parity Bond Authorizing Ordinance and such default or defaults have continued for a period of six months after the City has received from the Bond Owners' Trustee (as defined below) or from the Registered Owners of not less than 25% in principal amount of the Parity Bonds, a written notice specifying and demanding the cure of such default. However, if the default in the observance and performance of any other of the covenants, conditions and agreements is one which cannot be completely remedied within the six months after written notice has been given, it shall not be an Event of Default with respect to the Bonds as long as the City has taken active steps within the six months after written notice has been given to remedy the default and is diligently pursuing such remedy.

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(3) If the City files a petition in bankruptcy or is placed in receivership under any state or federal bankruptcy or insolvency law.

(b) **Bond Owners' Trustee.** So long as such Event of Default has not been remedied, a trustee (the "Bond Owners' Trustee") may be appointed by the Registered Owners of 25% in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners of the Parity Bonds or by their attorneys-in-fact duly authorized and delivered to such Bond Owners' Trustee, notification thereof being given to the City. That appointment shall become effective immediately upon acceptance thereof by the Bond Owners' Trustee. Any Bond Owners' Trustee appointed under the provisions of this subsection (b) shall be a bank or trust company organized under the laws of the State of Washington or the State of New York or a national banking association. The bank or trust company acting as Bond Owners' Trustee may be removed at any time, and a successor Bond Owners' Trustee may be appointed, by the Registered Owners of a majority in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners of the Bonds or by their attorneys-in-fact duly authorized. The Bond Owners' Trustee may require such security and indemnity as may be reasonable against the costs, expenses and liabilities that may be incurred in the performance of its duties.

In the event that any Event of Default in the sole judgment of the Bond Owners' Trustee is cured and the Bond Owners' Trustee furnishes to the City a certificate so stating, that Event of Default shall be conclusively deemed to be cured and the City, the Bond Owners' Trustee and the Registered Owners of the Parity Bonds shall be restored to the same rights and position which they would have held if no Event of Default had occurred.

The Bond Owners' Trustee appointed in the manner herein provided, and each successor thereto, is declared to be a trustee for the Registered Owners of all the Parity Bonds and is empowered to exercise all the rights and powers herein conferred on the Bond Owners' Trustee.

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(c) **Suits at Law or in Equity.** Upon the happening of an Event of Default and during the continuance thereof, the Bond Owners' Trustee may, and upon the written request of the Registered Owners of not less than 25% in principal amount of the Parity Bonds outstanding shall, take such steps and institute such suits, actions or other proceedings, all as it may deem appropriate for the protection and enforcement of the rights of the Registered Owners of the Parity Bonds, to collect any amounts due and owing to or from the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance or in any of the Parity Bonds.

Nothing contained in this Section shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal on the Parity Bonds, and the remedy of acceleration is expressly denied to the Registered Owners of the Parity Bonds under any circumstances including, without limitation, upon the occurrence and continuance of an Event of Default.

Any action, suit or other proceedings instituted by the Bond Owners' Trustee hereunder shall be brought in its name as trustee for the Bond owners and all such rights of action upon or under any of the Parity Bonds or the provisions of this ordinance may be enforced by the Bond Owners' Trustee without the possession of any of those Parity Bonds and without the production of the same at any trial or proceedings relative thereto except where otherwise required by law. Any such suit, action or proceeding instituted by the Bond Owners' Trustee shall be brought for the ratable benefit of all of the Registered Owners of those Parity Bonds, subject to the provisions of this ordinance. The respective Registered Owners of the Parity Bonds, by taking and holding the same, shall be conclusively deemed irrevocably to appoint the Bond Owners' Trustee the true and lawful trustee of the respective Registered Owners of those Parity Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust any sums becoming distributable on account of those Parity Bonds; to execute any paper or documents for the receipt of money; and to do all acts with respect thereto that the Registered

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Owner himself or herself might have done in person. Nothing herein shall be deemed to authorize or empower the Bond Owners' Trustee to consent to accept or adopt, on behalf of any Registered Owner of the Parity Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or any right of any owner thereof, or to authorize or empower the Bond Owners' Trustee to vote the claims of the Registered Owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City is a party.

(d) **Application of Money Collected by Bond Owners' Trustee.** Any money collected by the Bond Owners' Trustee at any time pursuant to this Section shall be applied in the following order of priority:

(i) first, to the payment of the charges, expenses, advances and compensation of the Bond Owners' Trustee and the charges, expenses, counsel fees, disbursements and compensation of its agents and attorneys; and

(ii) second, to the payment to the persons entitled thereto of all installments of interest then due on the Parity Bonds in the order of maturity of such installments and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

(iii) third, to the payment to the persons entitled thereto of the unpaid principal amounts of any Parity Bonds which shall have become due (other than Parity Bonds previously called for redemption for the payment of which money is held pursuant to the provisions hereto), whether at maturity or by proceedings for redemption or otherwise, in the order of their due dates and, if the amount available shall not be sufficient to pay in full the principal amounts due on the same date, then to the payment thereof ratably, according to the principal amounts due thereon to the persons entitled thereto, without any discrimination or preference.

(e) **Duties and Obligations of Bond Owners' Trustee.** The Bond Owners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default, the Bond Owners' Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Bond Owners' Trustee shall have no liability for any act or omission to act

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hereunder except for the Bond Owners' Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bond Owners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties or obligations of the Bond Owners' Trustee shall be read into this ordinance.

The Bond Owners' Trustee shall not be required to expend or risk its own funds or otherwise incur individual liability in the performance of any of its duties or in the exercise of any of its rights or powers as the Bond Owners' Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct.

The Bond Owners' Trustee shall not be bound to recognize any person as a Registered Owner of any Bond until his title thereto, if disputed, has been established to its reasonable satisfaction.

The Bond Owners' Trustee may consult with counsel and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. The Bond Owners' Trustee shall not be answerable for any neglect or default of any person, firm or corporation employed and selected-by it with reasonable care.

(f) **Suits by Individual Bond Owners Restricted.** No owner of any one or more of Parity Bonds shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of same unless:

(i) an Event of Default has happened and is continuing;

(ii) a Bond Owners' Trustee has been appointed;

(iii) such owner previously shall have given to the Bond Owners' Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted;

(iv) the Registered Owners of 25% in principal amount of the Parity Bonds, after the occurrence of such Event of Default, has made written request of the Bond Owners' Trustee and have afforded the Bond Owners' Trustee a reasonable opportunity to institute such suit, action or proceeding;

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(v) there have been offered to the Bond Owners' Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and

(vi) the Bond Owners' Trustee has refused or neglected to comply with such request within a reasonable time.

No owner of any Parity Bond shall have any right in any manner whatever by his action to affect or impair the obligation of the City to pay from the Net Revenue the principal of and interest on such Parity Bonds to the respective Registered Owners thereof when due.

(g) **Failure to Comply With Undertaking.** Notwithstanding anything in this Section to the contrary, the failure of the City or any obligated person to comply with the Undertaking adopted by the Bond Resolution pursuant to Section 24 shall not constitute an Event of Default hereunder, and the sole remedy of any holder of a Bond shall be to seek an order of specific performance from an appropriate court to compel the City to comply with the Undertaking.

Section 28. Execution of Refunding Plan.

(a) **Appointment of Refunding Trustee.** Consistent with the applicable requirements of the Refunded Bonds Legislation and any applicable agreements with Bond Insurers, the Director of Finance may serve as, or appoint the Refunding Trustee for each series of Bonds, which service or appointment shall be confirmed by the Bond Resolution.

(b) **Use of Bond Proceeds; Acquisition and Substitution of Acquired Obligations.** For each series of Bonds, sufficient proceeds of the sale of the Bonds shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to pay the amounts required by the Refunding Plan to discharge the obligations of the City with respect to the applicable Refunded Bonds. The Refunding Plan shall be carried out, and proceeds of the Bonds shall be applied, in accordance with this ordinance, the respective Refunded Bond Legislation, the Bond Resolution and the laws of the State. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of the Acquired Obligations, bearing such interest and maturing as to principal and interest in such

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amounts and at such times so as to provide, together with a beginning cash balance, if necessary, for the payment of the amount required to be paid by the Refunding Plan. The Acquired Obligations shall be listed and more particularly described in a schedule attached to the Refunding Trust Agreement, and shall be subject to substitution as set forth therein. Any surplus money resulting from the sale, transfer, other disposition or redemption of the Acquired Obligations and the substitutions therefor shall be released from the trust estate and transferred to the Water Fund to be used for any lawful purpose.

(c) **Administration of Refunding Plan.** The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or substitute obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or substitute obligations) and money deposited with the Refunding Trustee pursuant to this ordinance. All Acquired Obligations (or substitute obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of the Refunded Bond Legislation, this ordinance, the Bond Resolution, chapter 39.53 RCW and other applicable statutes of the State of Washington and the Refunding Trust Agreement. All necessary and proper fees, compensation and expenses of the Refunding Trustee and all other costs incidental to the setting up of the escrow to accomplish the refunding of the Refunded Bonds and costs related to the issuance and delivery of the Bonds, including bond printing, verification fees, Bond Counsel's fees and other related expenses, shall be paid out of the proceeds of the Bonds.

(d) **Authorization for Refunding Trust Agreement.** To carry out the Refunding Plan for each series of Bonds, the Director of Finance is authorized and directed to execute and deliver to the Refunding Trustee, in connection with each series of Bonds, a Refunding Trust Agreement substantially in the form approved by the Bond Resolution setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the

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payment, redemption and retirement of the Refunded Bonds as provided herein and in the Bond Resolution.

Section 29. Call for Redemption of the Refunded Bonds. As a part of the Refunding Plan, the City may in the Bond Resolution call the Refunded Bonds for redemption. Such call for redemption of the Refunded Bonds shall specify the Refunded Bonds, call dates and redemption prices, and shall be irrevocable after the delivery to the initial purchaser of the applicable series of Bonds. The dates on which the Refunded Bonds are called for redemption shall be, in the judgment of the Director of Finance, the earliest practical dates on which those bonds may be called for redemption.

The proper officials of the City are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required pursuant to the applicable Refunded Bond Legislation in order to effect the redemption prior to maturity of the Refunded Bonds.

Section 30. City Findings with Respect to Refunding. With respect to each series of Bonds, the Refunding Plan shall be carried out only if the City finds and determines in the Bond Resolution that the money to be deposited with the Refunding Trustee will discharge and satisfy the obligations of the City with respect to the Refunded Bonds under the applicable Refunded Bond Legislation, and the pledges, charges, trusts, covenants and agreements of the City therein made or provided for as to the Refunded Bonds, and that the Refunded Bonds shall no longer be deemed to be outstanding under such legislation immediately upon the deposit of such money with the Refunding Trustee.

Section 31. Sale of Bonds. At least 10 days before the City Council adopts a Bond Resolution for a series of Bonds, the Director of Finance shall notify the President of the City Council, in writing, of the Director of Finance's determination that the issuance of the series of Bonds is consistent with the then-current financial policies of the City. The notice shall set forth the reasons for the Director of Finance's determination. Upon giving such notice, the Director of

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Finance may provide for the sale of that series of Bonds (or any portion thereof) by public sale or by a negotiated sale with an underwriter or other financial institution chosen through a selection process acceptable to the Director of Finance. The City Council's adoption of the Bond Resolution shall be conclusive evidence that proper notice was provided to the President of the City Council. The Director of Finance is authorized to specify a date and time of sale of the Bonds, to give notice of that sale, to determine any bid requirements and criteria for determining the award of the bid, to provide for the use of an electronic bidding mechanism, and to specify other matters in his or her determination necessary, appropriate, or desirable to carry out the sale of the Bonds. The terms of that sale shall be consistent with this ordinance and the Bond Resolution and shall be confirmed by the Bond Resolution. The Bonds shall be delivered to the purchasers as provided in the Bond Resolution immediately upon payment to the City of the purchase price plus accrued interest, if any, to the Closing Date in immediately available federal funds in Seattle, Washington, at the City's expense or at another time or place upon which the Director of Finance and the purchaser may mutually agree at the purchaser's expense.

CUSIP numbers will be printed on the Bonds if requested by the purchasers, but neither failure to print CUSIP numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the purchasers to accept delivery of and pay for the Bonds in accordance with the purchase offer. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid by the City, but the fee of the CUSIP Service Bureau for the assignment of those numbers shall be the responsibility of and shall be paid by the purchasers.

The City will cause the Bonds to be typed, photocopied, printed or lithographed, sealed and executed and will furnish the approving legal opinion of Bond Counsel, the opinion also being printed on each Bond unless the Bond is typed or photocopied.

Section 32. <u>General Authorization</u>. The Mayor and the Director of Finance of the City and each of the other appropriate officers of the City are each authorized and directed to do everything as in their judgment may be necessary, appropriate or desirable in order to carry out

DIS CITY CLERK

the terms and provisions of, and complete the transactions contemplated by, this ordinance. In particular, and without limitation, the Director of Finance may, in his or her discretion and without further action by the City Council, (i) issue requests for proposals for underwriting or financing facilities and execute engagement letters with underwriters, bond insurers or other financial institutions based on responses to such requests, (ii) deem final and approve the distribution of any preliminary official statement or official statement relating to the Bonds, (iii) comply with any continuing disclosure requirements applicable to the Bonds and (iv) change the Bond Registrar or any securities depository appointed for the Bonds.

Section 33. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 34. Ratification of Prior Acts. Any action taken consistent with the authority but prior to the effective date of this ordinance, including, if applicable, but not limited to issuing requests for proposals for financing or underwriting services, executing engagement letters for financing or underwriting services based on responses to such requests, giving notices of the sale of Bonds, adopting the Bond Resolution, executing contracts, making fund transfers and paying warrants, is ratified, approved and confirmed.

Section 35. Section Headings. The Section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

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Section 36. Effective Date. This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved by the Mayor and returned by the Mayor within ten days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of September, 2005, and signed by me in open session in authentication of its passage this 26th day of September, 2005.

President _____ of the City Council

Approved by me this 3rd day of October, 2005.

Gregory J. Nickels, Mayor

Filed by me this 3rd day of October, 2005.

City Clerk

(SEAL)

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EXHIBIT A

Outstanding Water Parity Bonds

Issue Name	Dated Date	Original Par Amount	Parity Bond Authorizing Legislation
Water System Revenue Bonds, 1997 ("1997 Bonds")	3/15/1997	$53,000,000	Ordinance 118512 and Resolution 29553
Water System Revenue Bonds, 1998 ("1998 Bonds")	6/1/1998	$80,000,000	Ordinance 118973 and Resolution 29785
Water System Revenue Bonds, 1999 ("1999A Bonds")	6/1/1999	$100,000,000	Ordinance 119457 and Resolution 29973
Water System Revenue Bonds, 1999, Series B ("1999B Bonds")	10/1/1999	$110,000,000	Ordinance 119649 and Resolution 30057
Water System Revenue Bonds, 2001 ("2001 Bonds")	11/1/2001	$52,525,000	Ordinance 120547 and Resolution 30419
Water System and Refunding Revenue Bonds, 2003 ("2003 Bonds")	4/29/2003	$271,320,000	Ordinance 121094 and Resolution 30598
Water System Revenue Bonds, 2004 ("2004 Bonds")	10/25/2004	$84,750,000	Ordinance 121587 and Resolution 30710

CITY CLERK

City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

August 30, 2005

Honorable Jan Drago
President
Seattle City Council
City Hall, 2nd Floor

Dear Council President Drago:

I am pleased to transmit the attached proposed Council Bill that provides authorization for the refunding of Seattle Public Utilities' Water System revenue bonds. The authorization, which covers both outstanding bonds and bonds to be issued in the future, will remain in effect for ten years. The City Council approved similar legislation for general obligation bonds last year, which resulted in a $3.4 million present value savings.

Interest rates in recent years have been unusually volatile. There have been times when this has made it difficult for the City to access the bond market in the timeliest, most advantageous, manner because of the long lead time required for the passage of refunding legislation on a case-by-case basis. The proposed legislation requires the Director of Finance to notify the City Council in writing at least ten days prior to any refunding bond issue, confirming that the proposed refunding meets the requirements of applicable City financial policies. As is the case in all of the City's bond issues, the Council must pass a Resolution accepting the terms of the refunding at the time the bonds are issued.

The refunding authorization proposed in this Bill will make it possible for the City to react in a more timely manner when conditions in the bond market present refunding opportunities, thereby maximizing potential savings. Thank you for your consideration of this legislation. Should you have questions, please contact Michael van Dyck at 684-8347.

Sincerely,

GREG NICKELS for
Mayor of Seattle

cc: Honorable Members of the Seattle City Council

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749
Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, Email: mayors.office@seattle.gov
An equal employment opportunity, affirmative action employer. Accommodations for people with disabilities provided upon request.

2005 CITY CLERK

Michael van Dyck
8/22/05
DOF WATER 2005 Refunding Bonds.ORD
Version #:2

Form revised December 9, 2004

FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	DOF Analyst/Phone:
DOF	Nick Pealy/684-7646	Michael Van Dyck/684-8347

Legislation Title:
AN ORDINANCE relating to the municipal water system of The City of Seattle; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purpose of paying all or part of the costs of refunding certain of the City's water system revenue bonds and issuing and selling the bonds; providing for terms, covenants and manner of sale of the bonds; describing the lien of the bonds; and providing for agreements and activities in connection with the disposition of the proceeds of the bonds.

- **Summary of the Legislation:** This legislation provides authorization for the refunding of Seattle Public Utilities' (SPU's) outstanding Water System revenue bonds for a period of ten years.

- **Background:** Market interest rates in recent years have been unusually volatile. When rates fall, substantial savings may be realized if the City can act quickly to refund (refinance) its outstanding bonds. When a refunding opportunity emerges, there may not be sufficient time for the City to follow its normal process of drafting, reviewing, and adopting an authorizing ordinance. The attached legislation authorizes the City to refund any of its outstanding Water System revenue bonds. Council approved similar legislation for general obligation bonds last year which resulted in a $3.4 million present value savings. This legislation would provide the same opportunity to the Seattle Public Utilities. Having in place a continuing authorization to refund outstanding bonds will enhance the ability of the City to schedule and structure its refunding bond issues so as to maximize the potential savings.

  Refundings are guided by Council-adopted Debt Management Policies. The City's Finance Director will notify the City Council President at least ten days in advance of any refunding of Water System revenue bonds authorized by this ordinance.

- *Please check one of the following:*

____ **This legislation does not have any financial implications.** (*Stop here and delete the remainder of this document prior to saving and printing.*)

__X__ **This legislation has financial implications.** *(Please complete all relevant sections that follow.)*

CITY CLERK

- **What is the financial cost of not implementing the legislation?** This legislation enables the City to act quickly despite the unpredictable nature of interest rates. There are frequently market conditions under which a two or three week delay could cost many millions of dollars in lost refunding savings.

- **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** There are no other alternatives that would achieve the same objective.

- **Is the legislation subject to public hearing requirements:** No.

- **Other Issues:** The legislation enhances existing controls over the refunding process. At least 10 days prior to any refunding bond issue, the proposed legislation requires the Director of Finance to notify the City Council in writing issue that the proposed refunding meets the requirements of applicable City financial policies. As is the case in all of the City's bond issues, the Council must pass a Resolution accepting the terms of the refunding issue at the time the bonds are issued.

CITY CLERK

STATE OF WASHINGTON – KING COUNTY

--ss.

190653 No.
CITY OF SEATTLE,CLERKS OFFICE

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:121939 ORDINANCE

was published on

10/07/05

The amount of the fee charged for the foregoing publication is the sum of $3,561.60, which amount has been paid in full.

Subscribed and sworn to before me on

10/07/05

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

City of Seattle

ORDINANCE 121939

AN ORDINANCE relating to the municipal water system of The City of Seattle; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purpose of paying all or part of the costs of refunding certain of the City's water system revenue bonds and issuing and selling the bonds; providing for terms, covenants and manner of sale of the bonds; describing the lien of the bonds; and providing for agreements and activities in connection with the disposition of the proceeds of the bonds.

WHEREAS, The City of Seattle (the "City") owns and operates a municipal water system (the "Municipal Water System"); and

WHEREAS, the City issued water system revenue bonds pursuant to the ordinances and resolutions set forth in Exhibit A to this ordinance (the "Outstanding Parity Bonds"); and

WHEREAS, the City has determined that it is in the best interest of the City to authorize the issuance and sale, subject to the provisions of this ordinance, of water system refunding revenue bonds (collectively, the "Bonds"), in one or more series, for the purpose of paying all or part of the cost of refunding all or a portion of the Outstanding Parity Bonds, the Bonds and certain water system revenue bonds hereafter issued (collectively, the "Refundable Bonds") and of paying all or part of the costs of issuance and sale of the Bonds; and

WHEREAS, the City from time to time will receive, review and adopt a plan to refund selected maturities of those Refundable Bonds, which selected maturities will be identified in the Bond Resolutions (hereinafter defined); and

WHEREAS, this ordinance will allow the refunding of any Refundable Bonds only if the refunding is (a) consistent with City financial policies in effect at the time of the proposed refunding and (b) approved by resolution of the City Council; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Definitions.

As used in this ordinance and for the purposes of this ordinance the following words shall have the following meanings:

"Accreted Value" means:

(1) with respect to any Capital Appreciation Bonds, as of the time of calculation, the sum of the amount representing the initial principal amount of such Capital Appreciation Bonds as set forth in the applicable Parity Bond Authorizing Ordinance plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, or

(2) with respect to original issue discount bonds under the Code, as of the time of calculation, the amount representing the initial public offering price of such original issue discount bonds plus the amount of the discounted principal which has accreted since the date of issue, determined in accordance with the provisions of the applicable Parity Bond Authorizing Ordinance.

"Acquired Obligations" means those Government Obligations purchased to accomplish the refunding of the Refunded Bonds, consistent with the Refunded Bond Legislation and any applicable agreements with Bond Insurers.

"Adjusted Annual Debt Service" for any fiscal year means Annual Debt Service minus (1) an amount equal to ULID Assessments due in that year and not delinquent, (2) an amount equal to earnings from investments in the Reserve Subaccount and (3) Annual Debt Service provided for by Parity Bond proceeds.

"Adjusted Gross Revenue of the Municipal Water System" or "Adjusted Gross Revenue" means Gross Revenue of the Municipal Water System plus withdrawals from the Rate Stabilization Account and minus (1) ULID Assessments, (2) earnings from investments in the Reserve Subaccount and (3) deposits into the Rate Stabilization Account.

"Adjusted Net Revenue of the Municipal Water System" or "Adjusted Net Revenue" means Adjusted Gross Revenue less Operation and Maintenance Expenses.

"Annual Debt Service" means, for any fiscal year of the City, all amounts required to be paid in respect of interest on and principal of Parity Bonds and Payment Agreement Payments in respect of Parity Payment Agreements, subject to the following:

State of Washington, King County

(i) Debt Service on Term Bonds. For purposes of calculating debt service on Term Bonds, only the scheduled mandatory redemption amounts payable in respect of principal of Term Bonds shall be taken into account in any fiscal year prior to the Term Bond Maturity Year, and only the principal amount scheduled to remain outstanding after payment of all prior mandatory redemption amounts shall be taken into account in the Term Bond Maturity Year;

(ii) Interest on Parity Bonds. For purposes of determining compliance with the Coverage Requirement, the Reserve Requirement and conditions for the issuance of Future Parity Bonds,

(A) Generally. Except as otherwise provided by subparagraph (ii)(B) with respect to Variable Interest Rate Bonds and by subparagraph (ii)(C) with respect to Parity Bonds with respect to which a Payment Agreement is in force, interest on any issue of Parity Bonds shall be calculated based on the actual amount of accrued, accreted or otherwise accumulated interest that is payable in respect of that issue taken as a whole, at the rate or rates set forth in the Parity Bond Authorizing Ordinance;

(B) Interest on Variable Interest Rate Bonds. The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate (the "assumed RBI-based rate") that is 90% of the average RBI during the fiscal quarter preceding the quarter in which the calculation is made;

(C) Interest on Parity Bonds With Respect to Which a Payment Agreement is in Force. Debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects that (i) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a Variable Interest Rate instead shall be treated as obligations bearing interest at a fixed interest rate, and (ii) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a fixed interest rate instead shall be treated as obligations bearing interest at a Variable Interest Rate. Accordingly, the amount of interest deemed to be payable on any Parity Bonds with respect to which a Payment Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts. For the purposes of calculating as nearly as practicable Payment Agreement Receipts and Payment Agreement Payments under a Payment Agreement, the following assumptions shall be made:

(1) Counterparty Obligated to Pay Actual Variable Interest on Variable Interest Rate Bonds. If any Payment Agreement obligates a Qualified Counterparty to make payments to the City based on the actual Variable Interest Rate on Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds and obligates the City to make payments to the Qualified Counterparty based on a fixed rate, payments by the City to the Qualified Counterparty shall be assumed to be made at the fixed rate specified by the Payment Agreement and payments by the Qualified Counterparty to the City shall be assumed to be made at the actual Variable Interest Rate on such Parity Bonds, without regard to the occurrence of any event that, under the provisions of the Payment Agreement, would permit the Qualified Counterparty to make payments on any basis other than the actual Variable Interest Rate on such Parity Bonds, and the Parity Bond Authorizing Ordinance shall set forth a debt service schedule for those Parity Bonds based on that assumption;

(2) Variable Interest Rate Bonds and Payment Agreements Having the Same Variable Rate Component. If both a Payment Agreement and related Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds include a variable rate payment component that is required to be calculated on the same basis (including, without limitation, on the basis of the same variable rate index), it shall be assumed that the variable rate payment component payable pursuant to the Payment Agreement is equal in amount to the variable rate interest component payable on those Parity Bonds;

(3) Variable Interest Rate Bonds and Payment Agreements Having Different Variable Rate Interest Components. If a Payment Agreement obligates either the City or the Qualified Counterparty to make payments of a variable rate interest component on a basis that is different (including, without limitation, on a different variable rate index) from the basis that is required to be used to calculate interest on the Parity Bonds that would, but for the Payment Agreement, be treated as Variable Interest Rate Bonds, it shall be assumed:

(a) City Obligated to Make Payments Based on Variable Rate Index. If payments by the City under the Payment Agreement are to be based on a variable rate index and payments by the Qualified Counterparty are to be based on a fixed rate, that payments by the City to the Qualified Counterparty will be based upon an interest rate equal to the assumed RBI-based rate, and that payments by the Qualified Counterparty to the City will be based on the fixed rate specified by the Payment Agreement; and

(b) City Obligated to Make Payments Based on Fixed Rate. If payments by the City under the Payment Agreement are to be based on a fixed rate and payments by the Qualified Counterparty are to be based on a variable rate index, that payments by the City to the Qualified Counterparty will be based on an interest rate equal to the rate (the "assumed fixed payor rate") that is 105% of the fixed rate specified by the Payment Agreement, and that payments by the Qualified Counterparty to the City will be based on a rate equal to the actual Variable Interest Rate on the Variable Interest Rate Bonds;

(4) Certain Payment Agreements May be Disregarded. Notwithstanding the provisions of subparagraphs (ii)(C)(1), (2) and (3) of this definition, the City shall not be required to (but may in its discretion) take into account in determining Annual Debt Service the effects of any Payment Agreement that has a term of ten years or less;

(D) Debt Service on Parity Payment Agreements. No additional debt service shall be taken into account with respect to a Parity Payment Agreement for any period during which Payment Agreement Payments on that Parity Payment Agreement are taken into account in determining Annual Debt Service on related Parity Bonds under subparagraph (ii)(C) of this definition. However, for any period during which Payment Agreement Payments are not taken into account in calculating Annual Debt Service on any outstanding Parity Bonds because the Parity Payment Agreement is not then related to any outstanding Parity Bonds, debt service on that Parity Payment Agreement shall be taken into account by assuming:

(1) City Obligated to Make Payments Based on Fixed Rate. If the City is obligated to make Payment Agreement Payments based on a fixed rate and the Qualified Counterparty is obligated to make payments based on a variable rate index, that payments by the City will be based on the assumed fixed payor rate, and that payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made, and

(2) City Obligated to Make Payments Based on Variable Rate Index. If the City is obligated to make Payment Agreement Payments based on a variable rate index and the Qualified Counterparty is obligated to make payment based on a fixed rate, that payments by the City will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the fiscal quarter preceding the quarter in which the calculation is made, and that the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement; and

(E) Balloon Bonds. For purposes of calculating debt service on any Balloon Bonds, it shall be assumed that the principal of those Balloon Bonds, together with interest thereon at a rate equal to the assumed RBI-based rate, will be amortized in equal annual installments over a term of 30 years.

"Average Annual Debt Service" means the sum of the Annual Debt Service for the remaining years to the last scheduled maturity of the applicable issue or issues of Parity Bonds divided by the number of those years.

"Balloon Bonds" means any series of Parity Bonds designated as Balloon Bonds in the applicable Parity Bond Authorizing Ordinance.

"Bond Account" means that special account of the City known as the Water Revenue Bond Account created by Ordinance 116705 in the Water Fund of the City for the payment of the principal of, mandatory sinking fund payments, Payment Agreement Payments, premiums, (if any), and interest on the Parity Bonds.

"Bond Counsel" means a firm of lawyers nationally recognized and accepted as bond counsel and so employed by the City for any purpose under this ordinance applicable to the use of that term.

"Bond Insurance" means any bond insurance, letter of credit, guaranty, surety bond or similar credit enhancement device providing for or securing the payment of all or part of the principal of and interest on any Parity Bonds.

"Bond Insurer" means any provider of Bond Insurance approved by the City Council by ordinance or resolution.

"Bond Register" means the books or records maintained by the Bond Registrar on which are recorded the names and addresses of the Registered Owners of each of the Bonds.

"Bond Registrar" or "Registrar" means the Fiscal Agency of the State of Washington, or any successor bond registrar selected by the City, whose duties include the registration and authentication of the Bonds, maintenance of the Bond Register, effecting transfer of ownership of the Bonds, and paying the principal of and premium, if any, and interest on the Bonds.

"Bond Resolution" means the resolution or resolutions of the City Council adopted pursuant to this ordinance to specify certain additional provisions of each series of the Bonds and their sale.

"Bonds" means the refunding bonds issued in one or more series from time to time pursuant to, under the authority of and for the purposes provided in this ordinance.

"Capital Appreciation Bonds" means any Parity Bonds, all or a portion of the interest on which is compounded and accumulated at the rates or in the manner, and on the dates, set forth in the applicable Parity Bond Authorizing Ordinance and is payable only upon redemption or on the maturity date of such Parity Bonds. Parity Bonds that are issued as Capital Appreciation Bonds, but later convert to obligations on which interest is paid periodically, shall be Capital Appreciation Bonds until the conversion date and thereafter shall no longer be Capital Appreciation Bonds, but shall be treated as having a principal amount equal to their Accreted Value on the conversion date.

"City" means The City of Seattle, Washington.

"City Council" means the City Council of the City.

"Closing Date" means the date on which a series of Bonds is delivered to the initial purchaser or purchasers thereof upon payment in full therefor.

"Code" means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

"Contract Resource Obligation" means an obligation of the City, designated as a Contract Resource Obligation and entered into pursuant to Section 22 of this ordinance, to make payments for water supply, transmission or other commodity or service to another person or entity (including without limitation a separate utility system created pursuant to Section 21 of this ordinance).

"Coverage Requirement" in any fiscal year of the City means an amount of Adjusted Net Revenue of the Municipal Water System equal to at least 1.25 times the Adjusted Annual Debt Service that year on all Parity Bonds.

"Director of Finance" means the Director of the Department of Finance of the City, or any other officer who succeeds to substantially all of the responsibilities of that office specified in this ordinance.

"DTC" means The Depository Trust Company, New York, New York, as initial Securities Depository for the Bonds.

"Event of Default" shall have the meaning assigned to that term in Section 27(a) of this ordinance.

"Fiscal Agency" means either of the fiscal agencies of the State of Washington located in Seattle, Washington, and New York, New York, or any other paying agent/registrar of the City, as the same may be designated in the Bond Resolution or otherwise designated from time to time.

"Future Parity Bonds" means all revenue bonds and other obligations (other than the Bonds) of the City issued hereafter, the payment of which constitutes a charge and lien on the Net Revenue of the Municipal Water System equal in rank with the charge and lien upon such revenue required to be paid into the Bond Account to pay and secure the payment of the principal of and interest on the Parity Bonds. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section 19.

"Government Obligations" means those government obligations defined by RCW 39.53.010(9) as it now reads or hereafter may be amended or replaced.

"Gross Revenue of the Municipal Water System" or "Gross Revenue" means in any fiscal year of the City all of the revenues of the Municipal Water System, including but not limited to revenue from the sale or transmission of water; the sale, lease or furnishing of other commodities, services, properties or facilities; the imposition of connection, capital improvement or other charges; ULID Assessments; net receipts from Payment Agreements; and earnings from the investment of money in the Water Fund. However, Gross Revenue shall not include earnings of a separate utility system that may be acquired or constructed by the City pursuant to Section 21 of this ordinance; principal proceeds of Parity Bonds or other borrowings; or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund Municipal Water System obligations (until commingled with other earnings and revenues of the Municipal Water System defined as Gross Revenue) or held in a special account for the purpose of paying a rebate to the United States Government under the Code.

"Independent Consulting Engineer" means either (1) an independent licensed professional engineer experienced in the design, construction or operation of municipal utilities of comparable size and character to the Municipal Water System, or (2) an independent certified public accountant or other professional consultant experienced in the development of rates and charges for municipal utilities of comparable size and character to the Municipal Water System.

"Letter of Representations" means, for each series of Bonds, the Letter of Representations relating to the Bonds to be delivered by the City to DTC.

"Maximum Annual Debt Service" means at the time of calculation, the maximum amount of Annual Debt Service that will mature or come due in the current year or any future year on the Parity Bonds.

"Municipal Water System" means the water system of the City as it now exists, and all additions thereto and betterments and extensions thereof at any time made, together with any utility systems of the City hereinafter combined with the Municipal Water System. The Municipal Water System shall not include any water supply or other utility system service or other facilities that may be created, acquired or constructed by the City as a separate utility system as provided in Section 21 of this ordinance.

"Net Revenue of the Municipal Water System" or "Net Revenue" means the Gross Revenue less Operation and Maintenance Expenses.

"Operation and Maintenance Expenses" means all expenses incurred by the City in causing the Municipal Water System of the City to be operated and maintained in good repair, working order and condition, including without limitation: deposits, premiums, assessments or other payments for insurance, if any, on the Municipal Water System; payments into pension funds; State-imposed taxes; amounts due under Contract Resource Obligations (but only at the times described in Section 22 of this ordinance); payments made to any other person or entity for the receipt of water supply or transmission or other commodity or service; and payments with respect to any other expenses of the Municipal Water System that are properly treated as operation and maintenance expenses under generally accepted accounting principles applicable to municipal corporations. Operation and Maintenance Expenses does not include any depreciation or taxes levied or imposed by the City, or payments to the City in lieu of taxes, or capital additions or capital replacements to the Municipal Water System.

"Outstanding Parity Bonds" means the then-outstanding 1997 Bonds, 1998 Bonds, 1999A, 1999B Bonds, 2001 Bonds, 2003 Bonds and 2004 Bonds, as described in Exhibit A.

"Parity Bonds" means the Outstanding Parity Bonds, the Bonds, and any Future Parity Bonds.

"Parity Bond Authorizing Ordinance" means the ordinance and/or resolution of the City that authorizes the issuance and sale and establishes the terms of a particular issue of Parity Bonds and other matters relating to the same plan of finance.

"Parity Payment Agreement" means a Payment Agreement under which the City's payment obligations are expressly stated to constitute a charge and lien on the Net Revenue of the Municipal Water System equal in rank with the charge and lien upon such revenue required to be paid into the Bond Account to pay interest on Parity Bonds.

"Payment Agreement" means a written agreement, for the purpose of managing or reducing the City's exposure to fluctuations or levels of interest rates or for other interest rate, investment, asset or liability management purposes, entered into on either a current or forward basis by the City and a Qualified Counterparty as authorized by any applicable laws of the State in connection with, or incidental to, the issuance, incurring or carrying of particular bonds, notes, bond anticipation notes, commercial paper, or other obligations for borrowed money, or lease, installment purchase or other similar financing agreements or certificates of participation therein, that provides for an exchange of payments based on interest rates, ceilings or floors on such payments, options on such payments, or any combination thereof or any similar device.

"Payment Agreement Payments" means the amounts periodically required to be paid by the City to the Qualified Counterparty pursuant to a Payment Agreement.

"Payment Agreement Receipts" means the amounts periodically required to be paid by the Qualified Counterparty to the City pursuant to a Payment Agreement.

"Principal and Interest Subaccount" means the account of that name created in the Bond Account for the payment of the principal of and interest and mandatory redemption requirements, if any, on the Parity Bonds.

"Qualified Counterparty" means a party (other than the City or a party related to the City) who is the other party to a Payment Agreement and (1)(a) whose senior debt obligations are rated in one of the three highest rating categories of each of the Rating Agencies (without regard to any gradations within a rating category) or (b) whose obligations under the Payment Agreement are guaranteed for the entire term of the Payment Agreement by a bond insurer or other institution which has been assigned a credit rating in one of the two highest rating categories of each of the Rating Agencies, and (2) who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

"Rate Stabilization Account" means the account of that name created in the Water Fund pursuant to Ordinance 116705 and redesignated for accounting purposes as the Revenue Stabilization Subfund of the Water Fund pursuant to Ordinance 120875.

"Rating Agencies" means Moody's Investors Service, Inc., and Standard & Poor's Ratings Services, a Division of The McGraw-Hill Companies, Inc., and their successors, and any other nationally-recognized securities rating agency or agencies rating Parity Bonds at the request of the City.

"RBI" means The Bond Buyer Revenue Bond Index or comparable index, or, if no comparable index can be obtained, 80% of the interest rate for actively traded 30-year United States Treasury obligations.

"Refundable Bonds" means, collectively, all or a portion of any Outstanding Parity Bonds and the Bonds, and all or a portion of those Future Parity Bonds that have been designated as Refundable Bonds in the applicable Parity Bond Ordinance.

"Refunded Bonds" means those Refundable Bonds included in a Refunding Plan.

"Refunded Bond Legislation" means the respective Parity Bond Authorizing Ordinances pursuant to which the Refunded Bonds were issued.

"Refunding Plan" means, with respect to the issuance of each series of Bonds, the refunding of all or a portion of the Refundable Bonds through the issuance of such series, as more particularly described in the Bond Resolution.

"Refunding Trust Agreement" means, with respect to each series of Bonds, a refunding trust or escrow agreement between the City and a Refunding Trustee, dated as of the Closing Date of such series, providing for the safekeeping of certain Bond proceeds and the refunding of all or a portion of the Refundable Bonds.

"Refunding Trustee" means, for each series of Bonds, the Director of Finance, or the trustee or escrow agent designated by the Director of Finance, consistent with the Refunded Bond Legislation and any applicable agreements with Bond Insurers.

"Registered Owner" means the person shown on the Bond Register as the owner of one or more Bonds.

"Reserve Insurance" means any bond insurance, letter of credit, guaranty, surety bond or similar credit enhancement device obtained by the City equal to part or all of the Reserve Requirement for any Parity Bonds which is issued by an institution which has been assigned a credit rating at the time of issuance of the device in one of the two highest rating categories of each of the Rating Agencies.

"Reserve Requirement" means as of any date the lesser of Maximum Annual Debt Service or 125% of Average Annual Debt Service on the Parity Bonds.

"Reserve Subaccount" means the account of that name created in the Bond Account for the purpose of securing the payment of the principal of and interest on the Parity Bonds.

"Securities Depository" means any one of the following registered securities depositories which has been designated by the City: (i) DTC; (ii) Midwest Securities Trust Company, Chicago, Illinois; (iii) Philadelphia Depository Trust Company, Philadelphia, Pennsylvania; or (iv) such other securities depositories as the City may designate in a certificate of the City delivered to the Bond Registrar.

"State" means the State of Washington.

"State Auditor" means the office of the Auditor of the State or such other department or office of the State authorized and directed by State law to make audits.

"Term Bond Maturity Year" means any calendar year in which Term Bonds are scheduled to mature.

"Term Bonds" means those Parity Bonds designated as such in the applicable Parity Bond Authorizing Ordinance.

"ULID" means a utility local improvement district.

"ULID Assessments" means all assessments levied and collected in a ULID of the City created for the acquisition or construction of additions to and betterments and extensions of the Municipal Water System if (and only if) those assessments are pledged to be paid into the Bond Account, not including any prepaid assessments paid into a construction fund or account. ULID Assessments shall include installments thereof and any interest or penalties thereon.

"Undertaking" means the City's undertaking in the Bond Resolution to provide certain disclosure as provided by Section 24.

"Variable Interest Rate" means any variable interest rate or rates to be borne by any Parity Bonds. The method of computing such a variable interest rate shall be as specified in the applicable Parity Bond Authorizing Ordinance (including a Bond Resolution), which ordinance or resolution also shall specify either (1) the particular period or periods of time or manner of determining such period or periods of time for which each value of such variable interest rate shall remain in effect or (2) the time or times upon which any change in such variable interest rate shall become effective. A Variable Interest Rate may, without limitation, be based on the interest rate on certain bonds or may be based on interest rate, currency, commodity or other indexes.

"Variable Interest Rate Bonds" means, for any period of time, any Parity Bonds that bear a Variable Interest Rate during that period, except that Parity Bonds shall not be treated as Variable Interest Rate Bonds if the net economic effect of interest rates on particular Parity Bonds of an issue and interest rates on other Parity Bonds of the same issue, as set forth in the applicable Parity Bond Authorizing Ordinance, or the net economic effect of a Payment Agreement with respect to particular Parity Bonds, in either case is to produce obligations that bear interest at a fixed interest rate; and Parity Bonds with respect to which a Payment Agreement is in force shall be treated as Variable Interest Rate Bonds if the net economic effect of the Payment Agreement is to produce obligations that bear interest at a Variable Interest Rate.

"Water Fund" means the fund of that name into which is paid the Gross Revenue of the Municipal Water System.

Section 2. Authorization and Description of Bonds.

The City is authorized to issue Bonds for the purpose of providing all or a part of the funds with which to pay the cost of refunding, defeasing, or refunding and defeasing, the Refunded Bonds and to pay all or part of the costs of issuing and selling the Bonds. The Bonds may be issued in one or more series at any time on or before December 31, 2015, and may be combined with other Parity Bonds authorized separately. The maximum principal amount of any series of the Bonds shall not exceed 125% of the then-outstanding principal amount of the Refundable Bonds refunded by that series of Bonds.

The Bonds shall be dated and have such year and series or other designation as determined by the Director of Finance or as specified by the Bond Resolution; shall be in the denomination of $5,000 or any integral multiple thereof within a single maturity or such other denomination specified in the Bond Resolution; and shall be numbered separately, in the manner and with any additional designation as the Bond Registrar deems necessary for the purpose of identification. The Bonds shall mature on the dates and in the amounts and bear interest payable on the dates and at the rates specified in the Bond Resolution, except that the net interest cost shall not exceed a weighted average rate of ten percent per annum. All or some of the Bonds may be Term Bonds, as specified by the Bond Resolution. The final maturity of any series of Bonds shall not exceed 40 years from the issue date for that series.

Section 3. Bond Resolution.

With respect to each series of Bonds, the City Council may adopt the Bond Resolution and in that resolution may provide for the matters described in this ordinance, including the manner of sale and delivery of and payment for the Bonds, the refunding of the Refunded Bonds, and such other matters that the City Council deems necessary and appropriate to carry out the purposes of this ordinance. Once adopted, the Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

For each series of Bonds, the Bond Resolution may provide for Bond Insurance or Reserve Insurance, and conditions or covenants relating thereto, including additional terms, conditions and covenants relating to the Bonds that are required by the bond insurer or letter of credit provider and are consistent with the provisions of this ordinance, including but not limited to restrictions on investments and requirements of notice to and consent of the bond insurer or letter of credit provider.

For each series of Bonds, the Bond Resolution may approve and authorize the execution and delivery on behalf of the City of any contracts consistent with the provisions of this ordinance for which the City's approval is necessary or to which the City is a party and that are related or incidental to the initial issuance and sale of the Bonds, the initial establishment of the interest rate or rates on the Bonds and any redemption of the Bonds, including but not limited to Payment Agreements and similar contracts for such purposes.

The Bond Resolution for each series of Bonds shall identify the Refunded Bonds to be refunded by that series, shall establish the terms and conditions upon which the Refunded Bonds are to be refunded, and shall confirm the Director of Finance as, or the Director of Finance's appointment of, the Refunding Trustee. The City Council may specify in the Bond Resolution the amount, if any, from the proceeds of or accrued interest on the Bonds to be deposited into specified funds, subfunds, accounts and subaccounts. In the absence of such a determination and specification in the Bond Resolution, the Director of Finance may make such determination and specification.

Section 4. Allocation of the Bonds to the Refunded Bonds.

With respect to each series of Bonds, the City Council shall, by the Bond Resolution, provide for the allocation of that series of Bonds to the various series of the Refunded Bonds in a manner consistent with the Code. Such allocation shall be reflected in schedules attached to the Bond Resolution.

Section 5. Registration and Transfer or Exchange of Bonds.

The Bonds shall be issued only in registered form as to both principal and interest and recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the Registered Owner of each Bond and the principal amount and number of each of the Bonds held by each Registered Owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same series, interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Registered Owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal or interest payment or redemption date (or other record date established by the Bond Resolution).

The City appoints DTC as initial Securities Depository for the Bonds. For so long as DTC is the Securities Depository for the Bonds, DTC or its nominee shall be deemed to be the Registered Owner of the Bonds for all purposes hereunder, and all references in this ordinance or the Bond Resolution to the Registered Owners of the Bonds shall mean DTC or its nominee and shall not mean the owners of any beneficial interests in the Bonds. Payments of principal of, premium, if any, and interest on all outstanding Bonds registered in the name of the nominee of DTC, or its registered assign, shall be made as provided in the Letter of Representations.

Bonds executed and delivered in fully immobilized form shall be executed and delivered in the form of one fully-registered immobilized certificate for each series and maturity of the Bonds representing the aggregate principal amount of the Bonds of that series and maturity, which Bonds shall (except as provided below for the discontinuation or substitution of Securities Depository) be registered in the name of the Securities Depository or its nominee. For so long as DTC serves as Securities Depository for the Bonds, the Bonds shall be registered in the name of Cede & Co., as nominee of DTC; however, if DTC shall request that the Bonds be registered in the name of a different nominee, the Bond Registrar shall exchange all or any portion of the Bonds for an equal aggregate principal amount of Bonds registered in the name of such other nominee or nominees of DTC. No person other than DTC or its nominee shall be entitled to receive from the City or the Bond Registrar any Bond or any other evidence of ownership of the Bonds, or any right to receive any payment in respect thereof, unless DTC or its nominee shall transfer record ownership of all or any portion of the Bonds on the Bond Register, in connection with discontinuing the book entry system as provided below or otherwise.

For so long as the Bonds are registered in the name of DTC or any nominee thereof, all payments of the principal of, or premium, if any, or interest with respect to the Bonds shall be made to DTC or its nominee in immediately available funds on the dates provided for such payments under this ordinance and the Bond Resolution and at such times and in the manner provided in the Letter of Representations. Each such payment to DTC or its nominee shall be valid and effective to fully discharge all liability of the City or the Bond Registrar with respect to the principal of, premium, if any, or interest with respect to the Bonds to the extent of the sum or sums so paid. In the event of the redemption of less than all of the Bonds of any series and maturity, the Bond Registrar shall not require surrender by DTC or its nominee of the Bonds so redeemed, and DTC or its nominee may retain such Bonds and make an appropriate notation thereon as to the amount of such partial redemption. DTC shall deliver to the Bond Registrar, upon request, a written confirmation of such partial redemption. The records maintained by the Bond Registrar shall be conclusive as to the amount of the Bonds of such series and maturity that have been redeemed.

All transfers of beneficial ownership interests in Bonds registered in the name of DTC or its nominee shall be effected by the procedures of DTC's participants and/or indirect participants for recording and transferring the ownership of beneficial interests in bonds.

The City and the Bond Registrar may treat DTC (or its nominee) as the sole and exclusive Registered Owner of the Bonds registered in its name for the purposes of payment of the principal of, premium, if any, or interest with respect to those Bonds, selecting Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to Registered Owners under this ordinance or the Bond Resolution, registering the transfer of Bonds, obtaining any consent or other action to be taken by Registered Owners of Bonds and for all other purposes whatsoever; and the City and the Bond Registrar shall not be affected by any notice to the contrary. The City and the Bond Registrar shall not have any responsibility or obligation to any direct or indirect DTC participant, any person claiming a beneficial ownership interest in the Bonds under or through DTC or any such participant, or any other person which is not shown on the Bond Register as being a Registered Owner of Bonds, with respect to: (i) the Bonds; (ii) any records maintained by DTC or any such participant; (iii) the payment by DTC or any such direct or indirect participant of any amount in respect of the principal of, premium, if any, or interest with respect to the Bonds; (iv) any notice which is permitted or required to be given to Registered Owners of Bonds under this ordinance or the Bond Resolution; (v) the selection by DTC or any such direct or indirect participant of any person to receive payment in the event of a partial redemption of the Bonds; or (vi) any consent given or other action taken by DTC as Registered Owner of the Bonds.

For so long as the Bonds are registered in the name of DTC or any nominee thereof, all notices required or permitted to be given to the Registered Owners of such Bonds under this ordinance or the Bond Resolution shall be given to DTC as provided in the Letter of Representations.

In connection with any notice or other communication to be provided to Registered Owners pursuant to this ordinance or the Bond Resolution by the City or the Bond Registrar with respect to any consent or other action to be taken by Registered Owners of the Bonds, DTC shall consider the date of receipt of notice requesting such consent or other action as the record date for such consent or other action; however, the City or the Bond Registrar may establish a special record date for such consent or other action and shall give DTC notice of such special record date not less than 15 calendar days in advance of such special record date to the extent practical.

Any successor Bond Registrar, in its written acceptance of its duties under this ordinance and the Bond Resolution, shall agree to take any actions necessary from time to time to comply with the requirements of any applicable Letter of Representations.

The book-entry system for registration of the ownership of the Bonds delivered in fully immobilized form may be discontinued at any time if: (i) after notice to the City and the Bond Registrar, DTC determines to resign as Securities Depository for the Bonds; or (ii) after notice to DTC and the Bond Registrar, the City determines that a continuation of the system of book-entry transfers through DTC (or through a successor Securities Depository) is not in the best interests of the City. In each of such events (unless, in the case described in clause (i) above, the City appoints a successor Securities Depository), the Bonds shall be delivered in registered certificate form to such persons, and in such maturities and principal amounts, as may be designated by DTC, but without any liability on the part of the City or the Bond Registrar for the accuracy of such designation. Whenever DTC requests the City and the Bond Registrar to do so, or whenever the City requests DTC and the Bond Registrar to do so after the determination by the City to replace DTC with a successor Securities Depository, the City and the Bond Registrar shall cooperate with DTC in taking appropriate action after reasonable notice to arrange for another Securities Depository to maintain custody of certificates evidencing the Bonds.

Section 6. Mutilated, Lost, Stolen and Destroyed Bonds.

In case any Bonds issued hereunder shall become mutilated or be destroyed, stolen or lost, the City may, if not then prohibited or otherwise required by law, cause to be executed and delivered a new Bond of like amount, interest rate, maturity date, series and tenor in exchange and substitution for and upon cancellation of such mutilated Bonds, or in lieu of and in substitution for such destroyed, stolen or lost Bonds, upon payment by the Registered Owner thereof of the reasonable expenses and charges of the City and the Bond Registrar in connection therewith, and in the case of a Bond destroyed, stolen or lost, the filing with the Bond Registrar of evidence satisfactory to it that such Bond was destroyed, stolen or lost, and of the ownership thereof, and furnishing the City and the Bond Registrar with indemnity satisfactory to each of them. If the mutilated, destroyed, stolen or lost Bond already has matured or been called for redemption in accordance with its terms it shall not be necessary to issue a new Bond prior to payment. If the provisions of State law at any time differ from the provisions of this Section 6 with respect to the requirements or procedures for replacing or otherwise handling mutilated, lost, stolen or destroyed Bonds, then the provisions of State law shall prevail.

Section 7. Payment of Bond Principal and Interest.

Principal of, premium, if any, and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts mailed by the Bond Registrar on the interest payment date to the Registered Owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date (or other record date established by the Bond Resolution) (the "Record Date") or, at the request of a Registered Owner of $1,000,000 or more in aggregate principal amount of Bonds, by wire transfer to an account in the United States designated in writing by such Registered Owner prior to the Record Date. Principal of and premium, if any, on the Bonds shall be payable upon presentation and surrender of the Bonds by the Registered Owners at either of the principal corporate trust office or offices of the Bond Registrar at the option of the Registered Owners. Notwithstanding the foregoing, payment of any Bonds registered in the name of DTC or its nominee shall be made in accordance with the Letter of Representations.

The Bonds shall be payable solely out of the Bond Account and shall not be general obligations of the City.

Section 8. Redemption and Open Market Purchase of Bonds.

(a) Optional Redemption.

All or some of the Bonds may be subject to redemption at the option of the City at the times and on the terms set forth in the Bond Resolution.

(b) Mandatory Redemption.

The City shall redeem any Term Bonds, if not redeemed under the optional redemption provisions set forth in the Bond Resolution or purchased in the open market under the provisions set forth below, by lot (or in such other manner as the Bond Registrar shall determine) at par plus accrued interest on the dates and in the years and principal amounts as set forth in the Bond Resolution.

If the City redeems Term Bonds under the optional redemption provisions set forth in the Bond Resolution or purchases Term Bonds in the open market as set forth below, the Term Bonds so redeemed or purchased (irrespective of their redemption or purchase price) shall be credited at the par amount thereof against the remaining mandatory redemption requirements in a manner to be determined by the Director of Finance or, if no such determination is made, on a pro-rata basis.

(c) Partial Redemption.

Whenever less than all of the Bonds of a single series and maturity are to be redeemed, the Bond Registrar shall select the Bonds or portions thereof to be redeemed from the Bonds of that series and maturity by lot, or in such other manner as the Bond Registrar shall determine, except that, for so long as the Bonds are registered in the name of DTC or its nominee, DTC shall select the Bonds or portions thereof to be redeemed in accordance with the Letter of Representations. In no event shall any Bond be outstanding in a principal amount that is not an authorized denomination.

Portions of the principal amount of any Bond, in integral amounts of $5,000, may be redeemed, unless otherwise provided in the Bond Resolution. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the Registered Owner, without charge therefor, a new Bond (or Bonds, at the option of the Registered Owner) of the same series, maturity and interest rate in any of the denominations authorized by the Bond Resolution in the aggregate total principal amount remaining unredeemed.

(d) Open Market Purchase.

The City reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase. The principal amount of Term Bonds purchased pursuant to this Section 8 shall be credited at the par amount thereof against the next mandatory redemption requirement, or as otherwise directed by the Director of Finance.

(e) Bonds to be Canceled.

All Bonds purchased or redeemed under this Section 8 shall be canceled.

Section 9. Notice of Redemption.

The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Registered Owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed by the Bond Registrar within the same period, postage prepaid, to each of the Rating Agencies at their offices in New York, New York, to any Bond Insurer for the Bonds, and to such other persons and with such additional information as the Director of Finance shall determine or as specified in the Bond Resolution, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 10. Failure to Redeem Bonds.

If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, principal of, premium, if any and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Account and the Bond has been called for payment by giving notice of that call to the Registered Owner of each of those unpaid Bonds.

Section 11. Form and Execution of Bonds.

The Bonds shall be typed, photocopied, printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance, the Bond Resolution and State law, shall be signed by the Mayor of The City of Seattle and Director of Finance, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in substantially the following form (with the designation, year, and series of the Bonds completed consistent with this ordinance), manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered The City of Seattle, Washington, Water System Refunding Revenue Bonds, [Year] [Series], described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENCY

Bond Registrar

By:

Authorized Signer

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 12. Bond Registrar.

The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and SMC Chapter 5.10 establishing a system of registration for the City's bonds and obligations, as that chapter now exists or may be amended.

The City reserves the right in its discretion to appoint special paying agents, registrars or trustees in connection with the payment of some or all of the principal of or interest on the Bonds. If a new Bond Registrar is appointed by the City, notice of the name and address of the new Bond Registrar shall be mailed to the Registered Owners of the Bonds. The notice may be mailed together with the next interest payment due on the Bonds, but, to the extent practicable, shall be mailed not less than 15 days prior to a maturity date of the principal or a mandatory redemption date of any Bond.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the Registered Owner of Bonds 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 members of, or in any other capacity with respect to, any committee formed to protect the rights of the Registered Owners of the Bonds.

Section 13. Bond Account.

Ordinance 116705 created the Water Revenue Bond Account (the "Bond Account") in the Water Fund and further divided the Bond Account into two subaccounts: the Principal and Interest Subaccount and the Reserve Subaccount. So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Bond Account all ULID Assessments on their collection (except for ULID Assessments deposited in a construction account) and, out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(a) Into the Principal and Interest Subaccount (i) upon receipt thereof, the accrued interest, if any, received by the City from the purchaser of the Bonds, and (ii) on or before each interest or principal and interest payment date of any Parity Bonds at least an amount which, together with other money on deposit therein, will be sufficient to pay the interest, or principal and interest, to become due and payable on the Parity Bonds on that payment date, including any Parity Bonds subject to mandatory redemption on that date, and net payments due on Parity Payment Agreements; and

(b) Into the Reserve Subaccount, in approximately equal annual payments, amounts necessary to fund the Reserve Requirement within five years from the date of issuance of such Parity Bonds after taking into account the capitalization of all or any part of the Reserve Requirement. The City may provide all or any part of the Reserve Requirement through Reserve Insurance, and the amount available to be drawn upon under that Reserve Insurance shall be credited against the Reserve Requirement, subject to the following:

The Reserve Insurance shall not be cancelable on less than three years' notice. On receipt of a notice of cancellation of any Reserve Insurance or upon notice that the entity providing the Reserve Insurance no longer meets the requirements specified herein, the City shall substitute Reserve Insurance in the amount required to make up the deficiency created in the Reserve Subaccount or in the alternative shall create a special account in the Water Fund and deposit therein, on or before the 25th day of each of the 36 succeeding calendar months (commencing with the 25th day of the calendar month next following the date of the notice) 1/36th of the amount sufficient, together with other money and investments on deposit in the Reserve Subaccount, to equal the Reserve Requirement in effect as of the date the cancellation or disqualification of the entity becomes effective. The required amounts shall be deposited in that special account from money in the Water Fund after making provision for payment of Operation and Maintenance Expenses and for required payments into the Bond Account. Amounts on deposit in that special account shall not be available to pay debt service on Parity Bonds or for any other purpose of the City, and shall be transferred to the Reserve Subaccount on the effective date of any cancellation of a Reserve Insurance to make up all or part of the deficiency caused thereby. Amounts in that special account or in the Reserve Subaccount may be transferred back to the Water Fund and used for any purpose if and when qualifying Reserve Insurance is obtained.

Except for withdrawals therefrom and payments over time as authorized herein, the Reserve Subaccount shall be maintained at the Reserve Requirement, as it is adjusted from time to time, at all times so long as any Parity Bonds are outstanding. For the purpose of determining the amount credited to the Reserve Subaccount, obligations in which money in the Reserve Subaccount has been invested shall be valued at the greater of cost or accreted value.

In the event that there shall be a deficiency in the Principal and Interest Subaccount to meet maturing installments of either principal or interest or mandatory redemption requirements, as the case may be, that deficiency shall be made up from the Reserve Subaccount by the withdrawal of cash therefrom for that purpose. Any deficiency created in the Reserve Subaccount by reason of any such withdrawal shall within 12 months be made up from ULID Assessments and Net Revenue available after making necessary provisions for the required payments into the Principal and Interest Subaccount.

The money in the Reserve Subaccount may be applied to the payment of the last outstanding bonds payable out of the Bond Account, except that any money in the Reserve Subaccount (including investment earnings) in excess of the Reserve Requirement may be withdrawn and deposited in the Principal and Interest Subaccount and spent for the purpose of retiring Parity Bonds or may be deposited in any other fund or account and spent for any other lawful Municipal Water System purpose. When the total amount in the Bond Account (including investment earnings) shall equal the total amount of principal and interest for all Parity Bonds to the last maturity thereof, no further payment need be made into the Bond Account.

The City may provide for the purchase, redemption or defeasance of any Parity Bonds by the use of money on deposit in any subaccount in the Bond Account as long as the money remaining in those subaccounts is sufficient to satisfy the required deposits in those subaccounts for the remaining Parity Bonds.

All money in the Bond Account may be kept in cash or invested in legal investments maturing, for investments in the Principal and Interest Subaccount, not later than the dates when the funds are required for the payment of principal of or interest on the Parity Bonds and, for investments in the Reserve Subaccount, maturing (or subject to redemption, or repurchase and redemption, at the option of the City) on a date not later than 15 years from the date of investment.

Earnings from investments in the Principal and Interest Subaccount shall be deposited in that account. Earnings from investments in the Reserve Subaccount shall be deposited in that account. Notwithstanding the provisions for the deposit of earnings, any earnings that are subject to federal arbitrage rebate requirements may be withdrawn from the Bond Account for deposit into a separate fund or account created for the purpose of compliance with those rebate requirements.

The City may create sinking fund accounts or other accounts in the Bond Account for the payment or securing the payment of Parity Bonds as long as the maintenance of such accounts does not conflict with the rights of the owners of such Parity Bonds.

Section 14. Rate Stabilization Account.

The Rate Stabilization Account has been created in the Water Fund. The City may at any time, as determined by the City and as consistent with Section 18 of this ordinance, deposit in the Rate Stabilization Account Gross Revenue and any other money received by the Municipal Water System and available to be used therefor. The City may withdraw any or all of the money from the Rate Stabilization Account for inclusion in the Adjusted Gross Revenue for any fiscal year of the City. Such deposits or withdrawals may be made up to and including the date 90 days after the end of the fiscal year for which the deposit or withdrawal will be included as Adjusted Gross Revenue.

No deposit of Gross Revenue 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 15. Finding as to Sufficiency of Gross Revenue.

A series of Bonds will be issued only if the City Council finds and determines by the Bond Resolution (i) that the Gross Revenue and benefits to be derived from the operation and maintenance of the Municipal Water System of the City at the rates to be charged from time to time for water and other services and commodities from the Municipal Water System consistent with Section 17(b) hereof, will be sufficient to meet all Operation and Maintenance Expenses and to permit the setting aside into the Bond Account out of the Gross Revenue of amounts sufficient to pay the principal of and interest on the Bonds and any mandatory redemption requirements when due, and (ii) that in fixing the amounts to be paid into the Bond Account the City has exercised due regard for Operation and Maintenance Expenses, and has not bound and obligated itself to set aside and pay into the Bond Account a greater amount or proportion of the Gross Revenue than in the judgment of the City will be available over and above the Operation and Maintenance Expenses.

Section 16. Pledge of Net Revenue and Lien Position.

The Net Revenue of the Municipal Water System and all money and investments held in the Bond Account and the Rate Stabilization Account is pledged to the payment of the Parity Bonds and to make payments into the Reserve Subaccount required by this ordinance, the Bond Resolution and Parity Bond Authorizing Ordinances, and this pledge shall constitute a lien and charge upon the Net Revenue prior and superior to any other charges whatsoever.

Section 17. Parity Bond Covenants.

The City covenants and agrees with the owner of each Bond at any time outstanding, as follows:

(a) **Operation and Maintenance.** It will at all times maintain, preserve and keep the properties of the Municipal Water System in good repair, working order and condition, will make all necessary and proper additions, betterments, renewals and repairs thereto, and improvements, replacements and extensions thereof so that at all times the business carried on in connection therewith will be properly and advantageously conducted, and will at all times operate or cause to be operated the properties of the Municipal Water System and the business in connection therewith in an efficient manner and at a reasonable cost.

(b) **Establishment and Collection of Rates and Charges.** It will establish, maintain and collect rates and charges for services and facilities provided by the Municipal Water System which will be fair and equitable, and will adjust those rates and charges from time to time so that:

(1) The Gross Revenue will be sufficient to (i) pay all Operation and Maintenance Expenses, (ii) pay when due all amounts that the City is obligated to pay into the Bond Account and the subaccounts therein, and (iii) pay all taxes, assessments or other governmental charges lawfully imposed on the Municipal Water System or the 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 the Gross Revenue by law or contract: and

(2) The Adjusted Net Revenue of the Municipal Water System in each fiscal year will be at least equal to the Coverage Requirement; and

(3) Except to aid the poor or infirm and for fire-fighting purposes, it will not furnish or supply or permit the furnishing or supplying of any service or facility in connection with the operation of the Municipal Water System free of charge to any person, firm or corporation, public or private.

The failure of the City to comply with subparagraphs (1) and (2) of this paragraph (b) shall not be an Event of Default if the City promptly retains an Independent Consulting Engineer to recommend to the City Council adjustments in the rates of the Municipal Water System necessary to meet the requirements of those subparagraphs and if the City Council adopts the recommended modifications within 180 days of the date the failure became known to the City Council.

(c) **Sale, Transfer or Disposition of the Municipal Water System.** It will sell, transfer or otherwise dispose of any of the works, plant, properties, facilities or other part of the Municipal Water System or any real or personal property comprising a part of the Municipal Water System only upon approval by ordinance and 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 Municipal Water System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Municipal Water System or are no longer necessary, material or useful to the operation of the Municipal Water System; 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 three percent of the total assets of the Municipal Water System; 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 fair market value of the portion of the Municipal Water System transferred. As used in this subparagraph, "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 the transfer shall be used (i) to promptly redeem, or irrevocably set aside for the redemption of, Parity Bonds, and/or (ii) to provide for part of the cost of additions to and betterments and extensions of the Municipal Water System. Before any such transfer under this subparagraph (3), the City must obtain a certificate of an Independent Consulting Engineer to the effect that in his or her professional opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining Municipal Water System will retain its operational integrity and the Adjusted Net Revenue of the Municipal Water System will be at least equal to the Coverage Requirement during the five fiscal years following the fiscal year in which the transfer is to occur, taking into account, (w) the reduction in revenue resulting from the transfer; (x) the use of any proceeds of the transfer for the redemption of Parity Bonds, (y) the Independent Consulting Engineer's estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Municipal Water System financed in part by the proposed portion of the proceeds of the transfer, and (z) any other adjustment permitted in the preparation of a certificate under Section 19(f)(2) of this ordinance. Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.

The amount required to be paid to the City may be reduced by any "equity credits" or similar amounts based on prior capital contributions or other payments to the City which, under any contract between the City and the transferee, are allowed as a setoff against the transfer price that would otherwise be payable to the City.

Upon the redemption or defeasance of all then outstanding 1997 Bonds, 1998 Bonds, 1999A Bonds, 1999B Bonds, 2001Bonds, 2003 Bonds, and 2004 Bonds, the City may sell, transfer or otherwise dispose of any of the works, plant, properties, facilities or other part of the Municipal Water System or any real or personal property comprising a part of the Municipal Water System 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, a "transfer") if the facilities or property transferred are not material to the operation of the Municipal Water System, or shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the Municipal Water System or are no longer necessary, material or useful to the operation of the Municipal Water System; 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 five percent (5%) of the total assets of the Municipal Water System; or

(3) The City in its discretion may carry out such a transfer if the proceeds from such transfer are used to acquire new useful operating facilities or properties of the Municipal Water System, or are used to retire outstanding Parity Bonds or other revenue obligations of the Municipal Water System, if, at the time of such transfer, the City has on file a a certificate of both the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of either office) demonstrating that in their opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining facilities of the Municipal Water System will retain their operational integrity and, based on the financial statements for the most recent fiscal year available, the proposed transfer would not prevent the Municipal Water System from complying with the Coverage Requirement during the five fiscal years following the fiscal year in which the transfer is to occur. The certificate shall take into account, (A) the reduction in revenue and expenses, if any, resulting from the transfer; (B) the use of any proceeds of the transfer for the redemption of Parity Bonds, (C) the estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Municipal Water System financed in part by the proposed portion of the proceeds of the transfer, and (D) any other adjustment permitted in the preparation of a certificate under Section 19(f)(2) of this ordinance. Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.

(d) **Liens Upon the Municipal Water System.** Except as otherwise provided in this ordinance, it will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the Gross Revenue 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 which, if unpaid, might become a lien or charge upon the Gross Revenue or any part thereof, prior or superior to, or on a parity with, the lien of the Parity Bonds, or which might impair the security of the Parity Bonds.

(e) **Books and Accounts.** It will keep proper books, records and accounts with respect to the operations, income and expenditures of the Municipal Water System in accordance with generally accepted accounting practices relating to the municipal utilities and any applicable rules and regulations prescribed by the State, and will cause those books, records and accounts to be audited on an annual basis by the State Auditor (or, if such audit is not made by the State Auditor within 270 days after the close of any fiscal year of the City, by a certified public accountant selected by the City). It will prepare annual financial and operating statements as soon as practicable after the close of each fiscal year showing in reasonable detail the financial condition of the Municipal Water System as of the close of the previous year, and the income and expenses for such year, including the amounts paid into the Bond Account and into any and all special funds or accounts created pursuant to the provisions of 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 Municipal Water System. Such statements shall be sent to the owner of any Parity Bonds upon written request therefor being made to the City. The City may charge a reasonable cost for providing such financial statements.

(f) **Collection of Delinquent Accounts.** On at least an annual basis, it will determine all accounts that are delinquent and will take such actions as the City determines are reasonably necessary to enforce payment of those delinquent accounts.

(g) **Maintenance of Insurance.** It at all times will carry fire and extended coverage, public liability and property damage 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 Municipal Water System as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, and against such claims for damages as are ordinarily carried by municipal or privately owned utilities engaged in the operation of like systems, or it will self-insure or will participate in an insurance pool or pools with reserves adequate, in the reasonable judgment of the City, to protect the Municipal Water System and the owners of the Parity Bonds against loss.

(h) **Condemnation Awards and Insurance Proceeds.** If the City receives any condemnation awards or proceeds of an insurance policy in connection with any loss of or damage to any property of the Municipal Water System, it shall apply the condemnation award or insurance proceeds, in the City's sole discretion, either (i) to the cost of replacing or repairing the lost or damaged properties, (ii) to the payment, purchase or redemption of Parity Bonds, or (iii) to the cost of improvements to the Municipal Water System.

Section 18. Flow of Funds.

All ULID Assessments shall be paid into the Bond Account as provided by this ordinance. The Gross Revenue of the Municipal Water System shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To pay the Operation and Maintenance Expenses;

(b) To pay interest on Parity Bonds and net payments on Parity Payment Agreements when due;

(c) To pay the principal of Parity Bonds as it comes due at maturity or as the principal is required to be paid pursuant to mandatory redemption requirements applicable to Term Bonds, and to make payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the Parity Bonds;

(d) To make all payments required to be made into the Reserve Subaccount, all payments required to be made under any agreement relating to the provision of Reserve Insurance, and payments due under any reimbursement agreement with a Bond Insurer which agreement requires those payments to be treated on a parity of lien with the payments required to be made into the Reserve Subaccount;

(e) To make all payments required to be made into any revenue bond, note, warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay or secure the payment of the principal of and interest on any revenue bonds, notes, warrants or other obligations of the City having a lien upon the revenue of the Municipal Water System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(f) To retire by redemption or purchase in the open market any outstanding revenue bonds or other revenue obligations of the Municipal Water System, to make necessary additional betterments, improvements and repairs to or extensions and replacements of the Municipal Water System, to make deposits into the Rate Stabilization Account, or for any other lawful Municipal Water System purposes.

The City may transfer any money from any funds or accounts of the Municipal Water System legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Bond Account.

Section 19. Provisions for Future Parity Bonds.

The City reserves the right to issue Future Parity Bonds and to enter into Parity Payment Agreements for purposes of the Municipal Water System or to refund a portion of the Parity Bonds if the following conditions are met and complied with at the time of the issuance of those Future Parity Bonds or entering into the Parity Payment Agreement:

(a) There shall be no deficiency in the Bond Account and no Event of Default with respect to any Parity Bonds shall have occurred and be continuing.

(b) The Parity Bond Authorizing Ordinance shall provide that all assessments and interest thereon that may be levied in any ULID created for the purpose of paying, in whole or in part, the principal of and interest on those Future Parity Bonds, shall be paid directly into the Bond Account, except for any prepaid assessments permitted by law to be paid into a construction fund or account.

(c) The Parity Bond Authorizing Ordinance shall provide for the payment of the principal thereof and interest thereon out of the Bond Account.

(d) The Parity Bond Authorizing Ordinance shall provide for the payment of amounts into the Bond Account to meet mandatory redemption requirements applicable to any Term Bonds to be issued and for regular payments to be made for the payment of the principal of such Term Bonds on or before their maturity, or, as an alternative, the mandatory redemption of those Term Bonds prior to their maturity date from money in the Principal and Interest Subaccount.

(e) The Parity Bond Authorizing Ordinance shall provide for the deposit into the Reserve Subaccount of (i) an amount, if any, necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds from Future Parity Bond proceeds or other money legally available, or (ii) Reserve Insurance or an amount plus Reserve Insurance necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds, or (iii) amounts necessary to fund the Reserve Requirement from ULID Assessments and Adjusted Net Revenue within five years from the date of issuance of those Future Parity Bonds, in five approximately equal annual payments.

(f) There shall be on file with the City either:

(1) a certificate of the Director of Finance demonstrating that during any twelve consecutive calendar months out of the immediately preceding 24 calendar months Adjusted Net Revenue was at least equal to the Coverage Requirement for all Parity Bonds plus the Future Parity Bonds proposed to be issued (and assuming that the debt service of the proposed Future Parity Bonds for that twelve-month period was the Average Annual Debt Service for those proposed bonds); or

(2) a certificate of both the Director of Finance and the Director of Seattle Public Utilities (who has succeeded to substantially all of the responsibilities of the Superintendent of the Municipal Water System), or any officer who succeeds to substantially all of the responsibilities of either office, that in their opinion the Adjusted Net Revenue for the five fiscal years next following the earlier of (A) the end of the period during which interest on those Future Parity Bonds is to be capitalized or, if no interest is capitalized, the fiscal year in which the Future Parity Bonds are issued, or (B) the date on which substantially all new facilities financed with those Future Parity Bonds are expected to commence operations, such Adjusted Net Revenue further adjusted as provided in paragraphs (i) through (iv) below, will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments:

(i) Any changes in rates in effect and being charged, or rates expected to be charged in accordance with a program of specific rates, rate levels or increases in overall rate revenue approved by ordinance or resolution;

(ii) Net revenue from customers of the Municipal Water System who have become customers during the 12 consecutive month period or thereafter, and their estimate of net revenue from any customers to be connected to the Municipal Water System who have paid the required connection charges, adjusted to reflect one year's net revenue from those customers;

(iii) Their estimate of net revenue from customers anticipated to be served by facilities or improvements financed in substantial part by those Future Parity Bonds (or additional Parity Bonds expected to be issued during the five-year period); and

(iv) Net revenue from any person, firm, corporation or municipal corporation under any executed contract for water or other utility service, which revenue was not included in the historical Net Revenue of the Municipal Water System.

If the Future Parity Bonds proposed to be issued are for the sole purpose of refunding Parity Bonds, no such coverage certification shall be required if the Adjusted Annual Debt Service on the Parity Bonds after the issuance of the Future Parity Bonds is not, for any year in which the Parity Bonds being refunded were outstanding, more than $5,000 over the Adjusted Annual Debt Service on the Parity Bonds prior to the issuance of those Future Parity Bonds.

Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds, money for the payment of which is not otherwise available, or revenue bonds that are a charge or lien upon the Gross Revenue subordinate to the charge or lien of the Parity Bonds, or from pledging the payment of ULID assessments into a bond redemption fund created for the payment of the principal of and interest on those junior lien bonds as long as such ULID assessments are levied for improvements constructed from the proceeds of those junior lien bonds.

Section 20. Reimbursement Obligations.

If the City elects to meet the Reserve Requirement or any portion thereof through the use of Reserve Insurance or elects to secure any issue of Parity Bonds through the use of Bond Insurance, the City may contract with the entity providing such Reserve Insurance or Bond Insurance to the effect that the City's reimbursement obligation, if any, to such entity ranks on a parity of lien with the Parity Bonds.

If provided by the Bond Resolution, if the principal of, interest or mandatory redemption requirements due on the Bonds is paid by a Bond Insurer pursuant to a Bond Insurance policy, the Bonds shall not be considered paid by the City, and the covenants, agreements and other obligations of the City to the Registered Owners shall continue to exist and the Bond Insurer shall be subrogated to the rights of the Registered Owners.

Section 21. Separate Utility Systems.

The City may create, acquire, construct, finance, own and operate one or more additional systems for water supply, transmission or other commodity or service. The revenue of that separate utility system shall not be included in the Gross Revenue of the Municipal Water System and may be pledged to the payment of revenue obligations issued to purchase, construct, condemn or otherwise acquire or expand the separate utility system. Neither the Gross Revenue nor the Net Revenue of the Municipal Water System shall be pledged by the City to the payment of any obligations of a separate utility system except (1) as a Contract Resource Obligation upon compliance with Section 22 hereof and/or (2) with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.

Section 22. Contract Resource Obligations.

The City may at any time enter into one or more Contract Resource Obligations for the acquisition, from facilities to be constructed, of water supply, transmission or other commodity or service relating to the Municipal Water System. The City may determine that, and may agree under a Contract Resource Obligation to provide that, all payments under that Contract Resource Obligation (including payments prior to the time that water supply or transmission or other commodity or service is being provided, or during a suspension or after termination of supply or service) shall be Operation and Maintenance Expenses if the following requirements are met at the time such a Contract Resource Obligation is entered into:

(a) No Event of Default has occurred and is continuing.

(b) There shall be on file a certificate of an Independent Consulting Engineer stating that (i) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the supply or transmission rendered; (ii) the source of any new supply, and any facilities to be constructed to provide the supply or transmission, are sound from a water or other commodity supply or transmission planning standpoint, are technically and economically feasible in accordance with prudent utility practice, and are likely to provide supply or transmission no later than a date set forth in the Independent Consulting Engineer's certification; and (iii) the Adjusted Net Revenue (further adjusted by the Independent Consulting Engineer's estimate of the payments to be made in accordance with the Contract Resource Obligation) for the five fiscal years following the year in which the Contract Resource Obligation is incurred, as such Adjusted Net Revenue is estimated by the Independent Consulting Engineer in accordance with the provisions of and adjustments permitted in Section 19(f)(2) of this ordinance, will be at least equal to the Coverage Requirement.

Payments required to be made under Contract Resource Obligations shall not be subject to acceleration.

Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of water supply, transmission or other commodity or service from existing facilities and from treating those payments as Operation and Maintenance Expenses. Nothing in this Section shall be deemed to prevent the City from entering into other agreements for the acquisition of water supply, transmission or other commodity or service from facilities to be constructed and from agreeing to make payments with respect thereto, such payments constituting a lien and charge on Net Revenue subordinate to that of Parity Bonds.

Section 23. Preservation of Tax Exemption for Interest on Bonds.

The City covenants that it will take all actions consistent with the terms of the Bonds, this ordinance and the Bond Resolution reasonably within its power and necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes and it will neither take any action nor make or permit any use of the proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes.

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

Section 24. Continuing Disclosure.

The City shall undertake to provide for the benefit of holders of the Bonds disclosure of certain financial information and operating data of the type included in the final official statement for the Bonds, as well as disclosure of certain material events respecting the Bonds, in the manner and to the extent required by United States Securities and Exchange Commission Rule 15c2-12(b)(5). The particular terms of any such Undertaking shall be set forth in the Bond Resolution.

Section 25. Advance Refunding or Defeasance of Bonds.

The City may issue advance refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay the principal of and interest on the Bonds, or such portion thereof included in a refunding or defeasance plan, as the same become due and payable and to redeem and retire, release, refund or defease the Bonds (the "Defeased Bonds") and to pay the costs of such refunding or defeasance. In the event that money and/or Government Obligations sufficient in amount, together with known earned income from the investments thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside irrevocably in a special fund for and pledged irrevocably to such redemption, retirement or defeasance (the "trust account"), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the Net Revenue and the funds and accounts pledged to the payment of such defeased Bonds, other than the right to receive the funds so set aside and pledged, thereafter shall cease and become void. Such owners thereafter shall have the right to receive payment of the principal of and interest or redemption price on the defeased Bonds from the trust account.

After the establishing and full funding of such a trust account, the City then may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine, subject only to the rights of the owners of any other Parity Bonds.

If the refunding plan provides that the defeased Bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding plan also provides that certain money and/or Government Obligations are pledged irrevocably for the prior redemption of the defeased Bonds included in that refunding plan, then only the debt service on the Bonds which 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 the Coverage Requirement for the issuance of Future Parity Bonds and the annual computation of the Coverage Requirement for determining compliance with the rate covenants.

Section 26. Amendatory and Supplemental Ordinances.

(a) This ordinance shall not be modified or amended in any respect subsequent to the initial issuance of the Bonds, except as provided in and in accordance with and subject to the provisions of this Section.

(b) The City, from time to time, and at any time, without the consent of or notice to the owners of the Bonds, may pass supplemental or amendatory ordinances as follows:

(1) To cure any formal defect, omission, inconsistency or ambiguity in this ordinance in a manner not adverse to the owner of any Parity Bond;

(2) To impose upon the Bond Registrar (with its consent) for the benefit of the owners of the Bonds any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with this ordinance as therefore in effect;

(3) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary or inconsistent with this ordinance as therefore in effect;

(4) To confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by this ordinance of any other money, securities or funds;

(5) To authorize different denominations of the Bonds and to make correlative amendments and modifications to this ordinance regarding exchangeability of Bonds of different authorized denominations, redemptions of portions of Bonds of particular authorized denominations and similar amendments and modifications of a technical nature;

(6) To modify, alter, amend or supplement this ordinance in any other respect which is not materially adverse to the owners of the Parity Bonds and which does not involve a change described in subsection (c) of this Section;

(7) Because of change in federal law or rulings, to maintain the exclusion from gross income of the interest on the Bonds from federal income taxation; and

(8) To add to the covenants and agreements of, and limitations and restrictions upon, the City in this ordinance, other covenants, agreements, limitations and restrictions to be observed by the City which are requested by a Bond Insurer or provider of Reserve Insurance and which are not materially adverse to the owners of the Parity Bonds.

Before the City shall adopt any such supplemental ordinance pursuant to this subsection (b), there shall have been delivered to the City and the Bond Registrar an opinion of Bond Counsel, stating that such supplemental ordinance is authorized or permitted by this ordinance and, upon the execution and delivery thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Bonds.

(c) (1) Except for any supplemental ordinance entered into pursuant to subsection (b) of this Section, subject to the terms and provisions contained in this subsection (c) and not otherwise, Registered Owners of not less than 60% in aggregate principal amount of the Parity Bonds shall have the right from time to time to consent to and approve the passage by the City of any supplemental ordinance deemed necessary or desirable by the City for the purpose of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in this ordinance; except that, unless approved in writing by the Registered Owners of all Parity Bonds, nothing contained in this Section shall permit, or be construed as permitting:

(i) A change in the times, amounts or currency of payment of the principal of or interest on any outstanding Parity Bond, or a reduction in the principal amount or redemption price of any outstanding Parity Bond or a change in the redemption price of any outstanding Parity Bond or a change in the method of determining the rate of interest thereon, or

(ii) A preference or priority of any Parity Bond or Bonds or any other bond or bonds, or

(iii) A reduction in the aggregate principal amount of Parity Bonds, the consent of the Registered Owners of which is required for any such supplemental ordinance.

(2) If at any time the City shall pass any supplemental ordinance for any of the purposes of this subsection (c), the Bond Registrar shall cause notice of the proposed supplemental ordinance to be given by first-class United States mail to all Registered Owners of the Parity Bonds, to any Bond Insurer, and to the Rating Agencies if the Bonds are rated by those agencies. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Bond Registrar for inspection by all Registered Owners of the Parity Bonds.

(3) Within two years after the date of the mailing of such notice, the City may adopt such supplemental ordinance in substantially the form described in such notice, but only if there shall have first been delivered to the Bond Registrar (i) the required consents, in writing, of the Registered Owners of the Parity Bonds, and (ii) an opinion of bond counsel stating that such supplemental ordinance is authorized or permitted by this ordinance and, upon the execution and delivery thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Parity Bonds.

(4) If Registered Owners of not less than the percentage of Parity Bonds required by this subsection (c) shall have consented to and approved the execution and delivery thereof as herein provided, no owner of the Parity Bonds shall have any right to object to the passage of such supplemental ordinance, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the passage thereof, or to enjoin or restrain the City or the Bond Registrar from passing the same or from taking any action pursuant to the provisions thereof.

(d) Upon the execution and delivery of any supplemental ordinance pursuant to the provisions of this Section, this ordinance shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City, the Bond Registrar and all owners of Parity Bonds, shall thereafter be determined, exercised and enforced under this ordinance subject in all respects to such modifications and amendments.

Section 27. Defaults and Remedies.

(a) Events of Default.

The following shall constitute "Events of Default" with respect to the Bonds:

(1) If a default is made in the payment of the principal of or interest on any of the Bonds when the same shall become due and payable; or

(2) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City set forth in this ordinance or any covenants, conditions or agreements on the part of the City contained in any Parity Bond Authorizing Ordinance and such default or defaults have continued for a period of six months after the City has received from the Bond Owners' Trustee (as defined below) or from the Registered Owners of not less than 25% in principal amount of the Parity Bonds, a written notice specifying and demanding the cure of such default. However, if the default in the observance and performance of any other of the covenants, conditions and agreements is one which cannot be completely remedied within the six months after written notice has been given, it shall not be an Event of Default with respect to the Bonds as long as the City has taken active steps within the six months after written notice has been given to remedy the default and is diligently pursuing such remedy.

(3) If the City files a petition in bankruptcy or is placed in receivership under any state or federal bankruptcy or insolvency law.

(b) Bond Owners' Trustee.

So long as such Event of Default has not been remedied, a trustee (the "Bond Owners' Trustee") may be appointed by the Registered Owners of 25% in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners of the Parity Bonds or by their attorneys-in-fact duly authorized and delivered to such Bond Owners' Trustee, notification thereof being given to the City. That appointment shall become effective immediately upon acceptance thereof by the Bond Owners' Trustee. Any Bond Owners' Trustee appointed under the provisions of this subsection (b) shall be a bank or trust company organized under the laws of the State of Washington or the State of New York or a national banking association. The bank or trust company acting as Bond Owners' Trustee may be removed at any time, and a successor Bond Owners' Trustee may be appointed, by the Registered Owners of a majority in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such Registered Owners of the Bonds or by their attorneys-in-fact duly authorized. The Bond Owners' Trustee may require such security and indemnity as may be reasonable against the costs, expenses and liabilities that may be incurred in the performance of its duties.

In the event that any Event of Default in the sole judgment of the Bond Owners' Trustee is cured and the Bond Owners' Trustee furnishes to the City a certificate so stating, that Event of Default shall be conclusively deemed to be cured and the City, the Bond Owners' Trustee and the Registered Owners of the Parity Bonds shall be restored to the same rights and position which they would have held if no Event of Default had occurred.

The Bond Owners' Trustee appointed in the manner herein provided, and each successor thereto, is declared to be a trustee for the Registered Owners of all the Parity Bonds and is empowered to exercise all the rights and powers herein conferred on the Bond Owners' Trustee.

(c) Suits at Law or in Equity.

Upon the happening of an Event of Default and during the continuance thereof, the Bond Owners' Trustee may, and upon the written request of the Registered Owners of not less than 25% in principal amount of the Parity Bonds outstanding shall, take such steps and institute such suits, actions or other proceedings, all as it may deem appropriate for the protection and enforcement of the rights of the Registered Owners of the Parity Bonds, to collect any amounts due and owing to or from the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance or in any of the Parity Bonds.

Nothing contained in this Section shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal on the Parity Bonds, and the remedy of acceleration is expressly denied to the Registered Owners of the Parity Bonds under any circumstances including, without limitation, upon the occurrence and continuance of an Event of Default.

Any action, suit or other proceedings instituted by the Bond Owners' Trustee hereunder shall be brought in its name as trustee for the Bond owners and all such rights of action upon or under any of the Parity Bonds or the provisions of this ordinance may be enforced by the Bond Owners' Trustee without the possession of any of those Parity Bonds and without the production of the same at any trial or proceedings relative thereto except where otherwise required by law. Any such suit, action or proceeding instituted by the Bond Owners' Trustee shall be brought for the ratable benefit of all of the Registered Owners of those Parity Bonds, subject to the provisions of this ordinance. The respective Registered Owners of the Parity Bonds, by taking and holding the same, shall be conclusively deemed irrevocably to appoint the Bond Owners' Trustee the true and lawful trustee of the respective Registered Owners of those Parity Bonds, with authority to institute any such action, suit or proceeding; to receive as trustee and deposit in trust any sums becoming distributable on account of those Parity Bonds; to execute any paper or documents for the receipt of money; and to do all acts with respect thereto that the Registered Owner himself or herself might have done in person. Nothing herein shall be deemed to authorize or empower the Bond Owners' Trustee to consent to accept or adopt, on behalf of any Registered Owner of the Parity Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or any right of any owner thereof, or to authorize or empower the Bond Owners' Trustee to vote the claims of the Registered Owners thereof in any receivership, insolvency, liquidation, bankruptcy, reorganization or other proceeding to which the City is a party.

(d) Application of Money Collected by Bond Owners' Trustee.

Any money collected by the Bond Owners' Trustee at any time pursuant to this Section shall be applied in the following order of priority:

(i) first, to the payment of the charges, expenses, advances and compensation of the Bond Owners' Trustee and the charges, expenses, counsel fees, disbursements and compensation of its agents and attorneys; and

(ii) second, to the payment to the persons entitled thereto of all installments of interest then due on the Parity Bonds in the order of maturity of such installments and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon to the persons entitled thereto, without any discrimination or preference; and

(iii) third, to the payment to the persons entitled thereto of the unpaid principal amounts of any Parity Bonds which shall have become due (other than Parity Bonds previously called for redemption for the payment of which money is held pursuant to the provisions hereto), whether at maturity or by proceedings for redemption or otherwise, in the order of their due dates and, if the amount available shall not be sufficient to pay in full the principal amounts due on the same date, then to the payment thereof ratably, according to the principal amounts due thereon to the persons entitled thereto, without any discrimination or preference.

(e) Duties and Obligations of Bond Owners' Trustee.

The Bond Owners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default, the Bond Owners' Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Bond Owners' Trustee shall have no liability for any act or omission to act hereunder except for the Bond Owners' Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bond Owners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties or obligations of the Bond Owners' Trustee shall be read into this ordinance.

The Bond Owners' Trustee shall not be required to expend or risk its own funds or otherwise incur individual liability in the performance of any of its duties or in the exercise of any of its rights or powers as the Bond Owners' Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct.

The Bond Owners' Trustee shall not be bound to recognize any person as a Registered Owner of any Bond until his title thereto, if disputed, has been established to its reasonable satisfaction.

The Bond Owners' Trustee may consult with counsel and the opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by it hereunder in good faith and in accordance with the opinion of such counsel. The Bond Owners' Trustee shall not be answerable for any neglect or default of any person, firm or corporation employed and selected by it with reasonable care.

(f) Suits by Individual Bond Owners Restricted.

No owner of any one or more of Parity Bonds shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of same unless:

(i) an Event of Default has happened and is continuing;

(ii) a Bond Owners' Trustee has been appointed;

(iii) such owner previously shall have given to the Bond Owners' Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted;

(iv) the Registered Owners of 25% in principal amount of the Parity Bonds, after the occurrence of such Event of Default, has made written request of the Bond Owners' Trustee and have afforded the Bond Owners' Trustee a reasonable opportunity to institute such suit, action or proceeding;

(v) there have been offered to the Bond Owners' Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and

(vi) the Bond Owners' Trustee has refused or neglected to comply with such request within a reasonable time.

No owner of any Parity Bond shall have any right in any manner whatever by his action to affect or impair the obligation of the City to pay from the Net Revenue the principal of and interest on such Parity Bonds to the respective Registered Owners thereof when due.

(g) Failure to Comply With Undertaking.

Notwithstanding anything in this Section to the contrary, the failure of the City or any obligated person to comply with the Undertaking adopted by the Bond Resolution pursuant to Section 24 shall not constitute an Event of Default hereunder, and the sole remedy of any holder of a Bond shall be to seek an order of specific performance from an appropriate court to compel the City to comply with the Undertaking.

Section 28. Execution of Refunding Plan.

(a) Appointment of Refunding Trustee.

Consistent with the applicable requirements of the Refunded Bonds Legislation and any applicable agreements with Bond Insurers, the Director of Finance may serve as, or appoint the Refunding Trustee for each series of Bonds, which service or appointment shall be confirmed by the Bond Resolution.

(b) Use of Bond Proceeds; Acquisition and Substitution of Acquired Obligations.

For each series of Bonds, sufficient proceeds of the sale of the Bonds shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to pay the amounts required by the Refunding Plan to discharge the obligations of the City with respect to the applicable Refunded Bonds. The Refunding Plan shall be carried out, and proceeds of the Bonds shall be applied, in accordance with this ordinance, the respective Refunded Bond Legislation, the Bond Resolution and the laws of the State. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of the Acquired Obligations, bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide, together with a beginning cash balance, if necessary, for the payment of the amount required to be paid by the Refunding Plan. The Acquired Obligations shall be listed and more particularly described in a schedule attached to the Refunding Trust Agreement, and shall be subject to substitution as set forth therein. Any surplus money resulting from the sale, transfer, other disposition or redemption of the Acquired Obligations and the substitutions therefor shall be released from the trust estate and transferred to the Water Fund to be used for any lawful purpose.

(c) Administration of Refunding Plan.

The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or substitute obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or substitute obligations) and money deposited with the Refunding Trustee pursuant to this ordinance. All Acquired Obligations (or substitute obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of the Refunded Bond Legislation, this ordinance, the Bond Resolution, chapter 39.53 RCW and other applicable statutes of the State of Washington and the Refunding Trust Agreement. All necessary and proper fees, compensation and expenses of the Refunding Trustee and all other costs incidental to the setting up of the escrow to accomplish the refunding of the Refunded Bonds and costs related to the issuance and delivery of the Bonds, including bond printing, verification fees, Bond Counsel's fees and other related expenses, shall be paid out of the proceeds of the Bonds.

(d) Authorization for Refunding Trust Agreement.

To carry out the Refunding Plan for each series of Bonds, the Director of Finance is authorized and directed to execute and deliver to the Refunding Trustee, in connection with each series of Bonds, a Refunding Trust Agreement substantially in the form approved by the Bond Resolution setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the payment, redemption and retirement of the Refunded Bonds as provided herein and in the Bond Resolution.

Section 29. Call for Redemption of the Refunded Bonds.

As a part of the Refunding Plan, the City may in the Bond Resolution call the Refunded Bonds for redemption. Such call for redemption of the Refunded Bonds shall specify the Refunded Bonds, call dates and redemption prices, and shall be irrevocable after the delivery to the initial purchaser of the applicable series of Bonds. The dates on which the Refunded Bonds are called for redemption shall be, in the judgment of the Director of Finance, the earliest practical dates on which those bonds may be called for redemption.

The proper officials of the City are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required pursuant to the applicable Refunded Bond Legislation in order to effect the redemption prior to maturity of the Refunded Bonds.

Section 30. City Findings with Respect to Refunding.

With respect to each series of Bonds, the Refunding Plan shall be carried out only if the City finds and determines in the Bond Resolution that the money to be deposited with the Refunding Trustee will discharge and satisfy the obligations of the City with respect to the Refunded Bonds under the applicable Refunded Bond Legislation, and the pledges, charges, trusts, covenants and agreements of the City therein made or provided for as to the Refunded Bonds, and that the Refunded Bonds shall no longer be deemed to be outstanding under such legislation immediately upon the deposit of such money with the Refunding Trustee.

Section 31. Sale of Bonds.

At least 10 days before the City Council adopts a Bond Resolution for a series of Bonds, the Director of Finance shall notify the President of the City Council, in writing, of the Director of Finance's determination that the issuance of the series of Bonds is consistent with the then-current financial policies of the City. The notice shall set forth the reasons for the Director of Finance's determination. Upon giving such notice, the Director of Finance may provide for the sale of that series of Bonds (or any portion thereof) by public sale or by a negotiated sale with an underwriter or other financial institution chosen through a selection process acceptable to the Director of Finance. The City Council's adoption of the Bond Resolution shall be conclusive evidence that proper notice was provided to the President of the City Council. The Director of Finance is authorized to specify a date and time of sale of the Bonds, to give notice of that sale, to determine any bid requirements and criteria for determining the award of the bid, to provide for the use of an electronic bidding mechanism, and to specify other matters in his or her determination necessary, appropriate, or desirable to carry out the sale of the Bonds. The terms of that sale shall be consistent with this ordinance and the Bond Resolution and shall be confirmed by the Bond Resolution. The Bonds shall be delivered to the purchasers as provided in the Bond Resolution immediately upon payment to the City of the purchase price plus accrued interest, if any, to the Closing Date in immediately available federal funds in Seattle, Washington, at the City's expense or at another time or place upon which the Director of Finance and the purchaser may mutually agree at the purchaser's expense.

CUSIP numbers will be printed on the Bonds if requested by the purchasers, but neither failure to print CUSIP numbers on any Bond nor error with respect thereto shall constitute cause for a failure or refusal by the purchasers to accept delivery of and pay for the Bonds in accordance with the purchase offer. All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid by the City, but the fee of the CUSIP Service Bureau for the assignment of those numbers shall be the responsibility of and shall be paid by the purchasers.

The City will cause the Bonds to be typed, photocopied, printed or lithographed, sealed and executed and will furnish the approving legal opinion of Bond Counsel, the opinion also being printed on each Bond unless the Bond is typed or photocopied.

Section 32. General Authorization.

The Mayor and the Director of Finance of the City and each of the other appropriate officers of the City are each authorized and directed to do everything as in their judgment may be necessary, appropriate or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance. In particular, and without limitation, the Director of Finance may, in his or her discretion and without further action by the City Council, (i) issue requests for proposals for underwriting or financing facilities and execute engagement letters with underwriters, bond insurers or other financial institutions based on responses to such requests, (ii) deem final and approve the distribution of any preliminary official statement or official statement relating to the Bonds, (iii) comply with any continuing disclosure requirements applicable to the Bonds and (iv) change the Bond Registrar or any securities depository appointed for the Bonds.

Section 33. Severability.

The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 34. Ratification of Prior Acts.

Any action taken consistent with the authority but prior to the effective date of this ordinance, including, if applicable, but not limited to issuing requests for proposals for financing or underwriting services, executing engagement letters for financing or underwriting services based on responses to such requests, giving notices of the sale of Bonds, adopting the Bond Resolution, executing contracts, making fund transfers and paying warrants, is ratified, approved and confirmed.

Section 35. Section Headings.

The Section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

Section 36. Effective Date.

This ordinance shall take effect and be in force 30 days from and after its approval by the Mayor, but if not approved by the Mayor and returned by the Mayor within ten days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of September, 2005, and signed by me in open session in authentication of its passage this 26th day of September, 2005.

JAN DRAGO,

President of the City Council.

Approved by me this 3rd day of October, 2005.

GREGORY J. NICKELS,

Mayor.

Filed by me this 3rd day of October, 2005.

(Seal) JUDITH PIPPIN,

City Clerk.

EXHIBIT A

Outstanding Water Parity Bonds

Issue Name	Dated Date	Original Par Amount	Parity Bond Authorizing Legislation
Water System Revenue Bonds, 1997 ("1997 Bonds")	3/15/1997	$53,000,000	Ordinance 118512 and Resolution 29553
Water System Revenue Bonds, 1998 ("1998 Bonds")	6/1/1998	$80,000,000	Ordinance 118973 and Resolution 29785
Water System Revenue Bonds, 1999 ("1999A Bonds")	6/1/1999	$100,000,000	Ordinance 119437 and Resolution 29973
Water System Revenue Bonds, 1999, Series B ("1999B Bonds")	10/1/1999	$110,000,000	Ordinance 119449 and Resolution 29977
Water System Revenue Bonds, 2001 ("2001 Bonds")	11/1/2001	$52,525,000	Ordinance 120547 and Resolution 30419
Water System and Refunding Revenue Bonds, 2003 ("2003 Bonds")	4/29/2003	$271,320,000	Ordinance 121094 and Resolution 30598
Water System Revenue Bonds, 2004 ("2004 Bonds")	10/25/2004	$84,750,000	Ordinance 121587 and Resolution 30710

Publication ordered by JUDITH PIPPIN, City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, October 7, 2005.

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