Ordinance No. 124339 [124339]

Council Bill No. 117941

AN ORDINANCE relating to the water system of The City of Seattle; amending Ordinance 121939 to conform Ordinance 121939 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

Related Legislation File: CB 117942

| Date Introduced and Referred: 10.14.13 | To: (committee): Budget |
|---|---|
| Date Re-referred: | To: (committee): |
| Date Re-referred: | To: (committee): |
| Date of Final Action: 11/25/13 | Date Presented to Mayor: 11/26/13 |
| Date Signed by Mayor: 12.3.13 | Date Returned to City Clerk: 12.4.13 |
| Published by Title Only ✓<br>Published in Full Text | Date Vetoed by Mayor: |
| Date Veto Published: | Date Passed Over Veto: |
| Date Veto Sustained: | Date Returned Without Signature: |

# The City of Seattle – Legislative Department

## Council Bill/Ordinance sponsored by: TBD

## Committee Action:

| Date | Recommendation | Vote |
|---|---|---|
| 11/18/13 | Pass | 9-0 |

This file is complete and ready for presentation to Full Council.

## Full Council Action:

| Date | Decision | Vote |
|---|---|---|
| ~~Passed~~ 11/25/13 | Passed | 9-0 |

Law Department

Michael VanDyck/Marc Greenough
FAS, Water Omnibus Ref ORD
October 10, 2013
Version #2

**CITY OF SEATTLE**

**ORDINANCE** 124339

COUNCIL BILL 117941

AN ORDINANCE relating to the water system of The City of Seattle; amending Ordinance 121939 to conform Ordinance 121939 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

WHEREAS, by Ordinance 121939 the City provided for the issuance and sale of water system bonds, in one or more series, for the purpose of paying all or part of the cost of refunding certain of the City's outstanding water bonds, and the costs of issuance of those bonds; and

WHEREAS, the City has recently updated the standard form of its bond ordinances and desires to conform Ordinance 121939 to reflect those changes; NOW, THEREFORE,

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

**Section 1.** **Amendment to Ordinance 121939.** Each section of Ordinance 121939, as amended by Ordinance 122837 (the "Ordinance"), is amended and restated as set forth in Sections 2 through 39 of this amendatory ordinance. Additions are double underlined and deletions are enclosed in double parentheses and struck through. Section references in the amended text are made with reference to the Ordinance as amended and restated by this ordinance. With respect to any Bonds authorized by the Ordinance, which are outstanding as of the effective date of this amendatory ordinance, the amendments contained herein shall be of no force or effect and the provisions of the Ordinance prior to the effective date of this amendatory ordinance shall continue in effect with respect to those outstanding Bonds.

**Section 2.** **Amendment to Section 1 of the Ordinance.** Section 1 of Ordinance 121939, as amended by Ordinance 122837, is amended and restated as follows:



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**Section 1.** **Definitions.** As used in this ordinance ((~~and for the purposes of this ordinance~~ ))the following ((~~words~~))capitalized terms shall have the following meanings:

**"Accreted Value"** means((~~: (1)~~ )) with respect to any Capital Appreciation Bond((~~s,~~)) (a) as of((~~ the time of calculation,~~)) any Valuation Date, the((~~ the sum of the~~)) amount((~~ representing the initial principal amount of~~)) set forth for such date in any Parity Bond Legislation authorizing such Capital Appreciation Bond((~~s 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~~ )), and (b) as of any date other than a Valuation Date, the sum of (i) the Accreted Value on the preceding Valuation Date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve 30-day months, multiplied by (B) the difference between the Accreted Values for such Valuation Dates.

((~~(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.~~))



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**"Acquired Obligations"** means those Government Obligations purchased to accomplish the ((~~refunding of the Refunded Bonds~~))Refunding Plan, consistent with the Refunded Bond Legislation and any applicable agreements with ((~~Bond Insurers~~))a provider of Bond Insurance or a Reserve Security.

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

((~~"Adjusted Gross Revenue of the Municipal Water System" or~~ ))**"Adjusted Gross Revenue"** means, for any period, Gross Revenue ((~~of the Municipal Water System~~ ))plus withdrawals from the Rate Stabilization Account made during that period, and minus (((~~1~~))a) ULID Assessments, (((~~2~~))b) earnings from investments in the Reserve Subaccount and (((~~3~~))c) deposits into the Rate Stabilization Account made during that period.

((~~"Adjusted Net Revenue of the Municipal Water System" or~~ ))**"Adjusted Net Revenue"** means Adjusted Gross Revenue less ((~~Operation~~))Operating and Maintenance Expense((~~s~~)).

**"Annual Debt Service"**((~~ means,~~)) for any ((~~fiscal~~))calendar year means the sum 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:~~))in such calendar year to pay the interest due in such calendar year on all Parity Bonds outstanding,



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excluding interest to be paid from the proceeds of the sale of Parity Bonds or other bonds; the principal of all outstanding Serial Bonds due in such calendar year; and the Sinking Fund Requirement, if any, for such calendar year.

((~~(i)~~))(a) ((~~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;~~)) this definition, the principal and interest portions of the Accreted Value of Capital Appreciation Bonds becoming due at maturity or by virtue of a Sinking Fund Requirement shall be included in the calculations of accrued and unpaid and accruing interest or principal in such manner and during such period of time as is specified in any Parity Bond Legislation authorizing such Capital Appreciation Bonds.

((~~(ii)~~))(b) ((~~Interest on Parity Bonds.~~))For purposes of calculating and determining compliance with the Coverage Requirement, the Reserve Requirement and the conditions for the issuance of Future Parity Bonds((~~,~~)) and/or entering into Parity Payment Agreements, the following shall apply:

((~~(A)~~))**i)Generally.** Except as otherwise provided by subparagraph (ii)((~~(B)~~)) below with respect to Variable Interest Rate Bonds and by subparagraph ((~~(ii)(C)~~))iii) below 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



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the rate or rates set forth in the applicable Parity Bond ((~~Authorizing Ordinance;~~))Legislation.

(((~~B~~))ii) **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~~))four calendar quarters preceding the quarter in which the calculation is made((~~;~~)).

(((~~C~~))iii) **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~~))produced by the following: (A) 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~~))B) 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 that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the fixed rate used in calculating Payment Agreement Payments will be equal to 105% of the fixed rate specified by the Payment Agreement and that the pricing mechanism or index specified by the Payment Agreement is the same as the pricing mechanism or index specified by the



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Parity Bonds. Notwithstanding the other provisions of this subparagraph, 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.((~~, 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 that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the variable rate payment component payable pursuant to the~~



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~~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 fixed rate used in calculating Payment Agreement Payments will be equal to 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;~~ ))



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((~~(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)~~))**(iv)** ((~~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)~~))subsection (iii) 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~~))payments on that Parity Payment Agreement shall be taken into account by assuming:

((~~(1)~~))**A)** **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~~))four calendar quarters preceding the quarter in which the calculation is made, and

((~~(2)~~))**B)** **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



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Parity Payment Agreement during the ((~~fiscal quarter~~))four calendar quarters 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~~))**v)** **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.

**"Authorized Denomination"** means $5,000 or any integral multiple thereof within a maturity of a Series.

**"Average Annual Debt Service"** means, at the time of calculation, the sum of the Annual Debt Service ((~~for the~~ ))remaining ((~~years~~))to be paid to the last scheduled maturity of the applicable ((~~issue or issues~~))series of Parity Bonds divided by the number of ((~~those~~ ))years such bonds are scheduled to remain outstanding.

**"Balloon Bonds"** means any series of Parity Bonds designated as Balloon Bonds in the applicable Parity Bond ((~~Authorizing Ordinance~~))Legislation.

((~~**"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.~~))

**"Beneficial Owner"** means, with regard to a Bond, the owner of any beneficial interest in that Bond.



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**"Bond Counsel"** means a lawyer or a firm of lawyers, selected by the City, of 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~~))standing in matters pertaining to bonds issued by states and their political subdivisions.

**"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 Purchase Contract"** means a written offer to purchase a Series, which offer has been accepted by the City in accordance with this ordinance. In the case of a competitive sale, the official notice of sale, the Purchaser's bid and the award by the City shall comprise the offer and the award by the City in accordance with this ordinance shall be deemed the acceptance of that offer for purposes of this ordinance.

**"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~~))for the purpose of identifying ownership of each Bond.

**"Bond Registrar"** ((~~or "Registrar"~~ ))means the Fiscal ((~~Agency of the State of Washington~~))Agent (unless the Bond Resolution provides for a different Bond Registrar with respect to a particular Series), or any successor bond



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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~~))in accordance with the Registration Ordinance.

**"Bond Resolution"** means ((~~the~~))a 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.~~))approving the Bond Sale Terms and taking other actions consistent with this ordinance.

**"Bond Sale Terms"** means the terms and conditions for the sale of a Series including the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants set forth in Section 4.

**"Bonds"** means the Water System refunding revenue 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 Bond((s))"** means any Parity Bond((s)), 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~~))Legislation and is payable only upon redemption or on the maturity date of such Parity Bond((s)). A Parity ((~~Bonds that are~~))Bond issued as a Capital Appreciation Bond((s)), but which later converts to ((~~obligations~~))an obligation on which interest is paid periodically, shall be a Capital Appreciation Bond((s)) until the conversion date and thereafter shall no



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longer be a Capital Appreciation Bond((s)), but shall be treated as having a principal amount equal to ((their))its Accreted Value on the conversion date.

**"City"** means The City of Seattle, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

**"City Council"** means the City Council of the City, as duly and regularly constituted from time to time.

((**"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))or any successor thereto, as it has been and may be amended from time to time,((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).))in accordance with Section 21.

**"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)).

**"DTC"** means The Depository Trust Company, New York, New York.

**"Director of Finance"** means the Director of the Finance Division of the Department of Finance and Administrative Services of the City, or any other



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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.~~))26.

**"Fiscal ((~~Agency~~))Agent"** 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~~))the fiscal agent of the ((~~City~~))State, as the same may be designated ((~~in~~))by the ((~~Bond Resolution or otherwise designated~~))State from time to time.

**"Future Parity Bonds"** means, with reference to any Series of the Bonds, all revenue bonds and ((~~other~~ ))obligations of the Water System (other than ((~~the Bonds~~)) that Series and any other Parity Bonds then outstanding) ((~~of the City~~ ))issued ((~~hereafter~~))or entered into after the Issue Date of such Series, 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 Parity Bond Account ((~~to pay and secure the payment of the principal of and interest on the Parity Bonds~~))under Section 16. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section ((~~19.~~))18.

**"Future Parity Bond Legislation"** means any ordinance or resolution passed or adopted by the City Council providing for the issuance and sale of a



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series of Future Parity Bonds, and any other ordinance or resolution amending or supplementing the provisions of any such ordinance or resolution.

**"Government Obligations"**((~~means those government obligations defined by RCW 39.53.010(9) as it now reads or hereafter may be amended or replaced~~)) has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

((~~**"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.~~)) means (a) all income, revenues, receipts and profits derived by the City through the ownership and operation of the Municipal Water System; (b) the proceeds received by the City directly or indirectly from the sale, lease or other disposition of any of the properties, rights



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or facilities of the Municipal Water System; (c) Payment Agreement Receipts, to the extent that such receipts are not offset by Payment Agreement Payments; and (d) the investment income earned on money held in any fund or account of the City, including any bond redemption funds and the accounts therein, in connection with the ownership and operation of the Municipal Water System. Gross Revenue does not include: (a) insurance proceeds compensating the City for the loss of a capital asset; (b) income derived from investments irrevocably pledged to the payment of any defeased bonds payable from Gross Revenue; (c) investment income set aside for or earned on money in any fund or account created or maintained solely for the purpose of complying with the arbitrage rebate provisions of the Code; (d) any gifts, grants, donations or other funds received by the City from any State or federal agency or other person if such gifts, grants, donations or other funds are the subject of any limitation or reservation imposed by the donor or grantor or imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds in a manner inconsistent with the application of Gross Revenue hereunder; (e) the proceeds of any borrowing for capital improvements (or the refinancing thereof); (f) the proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues); (g) general *ad valorem* taxes, excise taxes and special assessments, including interest and penalties thereon; and (h) earnings of any separate utility system that may be created, acquired, or constructed by the City pursuant to Section 20.



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**"Independent ((~~Consulting Engineer~~))Utility Consultant"** means ((~~either (1) an independent licensed professional engineer experienced in the design, construction or operation of municipal utilities~~))an independent person or firm having a favorable reputation for skill and experience with municipal water systems 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~~)) in such areas as are relevant to the purpose for which they were retained.

**"Issue Date"** means, with respect to a Bond, the date, as determined by the Director of Finance, on which that Bond is issued and delivered to the Purchaser in exchange for its purchase price.

**"Letter of Representations"** means((~~, for each series of Bonds,~~)) the Blanket Issuer Letter of Representations ((~~relating to the Bonds to be delivered by the City to DTC~~))between the City and DTC dated October 4, 2006, as it may be amended from time to time, or an agreement with a substitute successor Securities Depository.

**"Maximum Annual Debt Service"** means, at the time of calculation, the maximum amount of Annual Debt Service ((~~that will mature or come~~))which shall become due in the current calendar year or in any future calendar year on the Parity Bonds then outstanding.

**"MSRB"** means the Municipal Securities Rulemaking Board.

**"Municipal Water System"** means the water system of the City as it now exists, and all additions thereto and betterments and extensions thereof at



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any time made, together with any utility systems of the City here((~~in~~))after combined with the Municipal Water System. The Municipal Water System shall not include any ((~~water supply or other~~))separate 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.~~))20.

**((~~"Net Revenue of the Municipal Water System" or~~ ))"Net Revenue"** means, for any period, the Gross Revenue less ((~~Operation~~))Operating and Maintenance Expense((~~s~~)).

**"((~~Operation~~))Operating and Maintenance Expense((~~s~~))"** 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~~))21); 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 operating and maintenance expenses under generally accepted accounting principles applicable to municipal corporations. ((~~Operation~~))Operating and Maintenance Expense((~~s~~)) 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.



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**"Outstanding Parity Bonds"** means, with reference to a Series of the Bonds, the ((~~then-outstanding 1997 Bonds, 1998 Bonds, 1999A, 1999B Bonds, 2001 Bonds, 2003 Bonds and 2004 Bonds, as~~))outstanding Parity Bonds described in Exhibit A, and any other Parity Bonds outstanding as of the Issue Date of that Series.

**"Owner"** means, without distinction, the Registered Owner and the Beneficial Owner of a Bond.

**"Parity Bond Account"** means the Water Revenue Parity Bond Account created by Ordinance 116705 in the Water Fund for the purpose of paying and securing the principal of and interest on Parity Bonds.

**"Parity Bond Legislation"** means any ordinance or resolution passed or adopted by the City Council providing for the issuance and sale of a series of Parity Bonds, and any other ordinance or resolution amending or supplementing the provisions of any Parity Bond Legislation.

**"Parity Bonds"** means the Outstanding Parity Bonds, the Bonds, and any outstanding Future Parity Bonds((~~.~~)) or Parity Payment Agreements.

((~~**"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 Conditions"** means the conditions for issuing Future Parity Bonds under the Parity Bond Legislation.

**"Parity Payment Agreement"** means a Payment Agreement under which the City's payment obligations are expressly stated to constitute a charge



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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 Parity 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.

**"Permitted Investments"** means any investments or investment agreements permitted for the investment of City funds under the laws of the State of Washington, as amended from time to time.



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

**"Purchaser"** means the entity or entities who have been selected in accordance with this ordinance to serve as underwriter, purchaser or successful bidder in a sale of any Series.

**"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)(((~~a~~))i) 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~~))ii) 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 Rating Agency; and((~~(2)~~)) (b) who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

**"Qualified Insurance"** means Bond Insurance provided by an insurance company that, as of the time of issuance of such Bond Insurance, is rated in one of the two highest rating categories (without regard to any gradations within a rating category) by at least two nationally recognized rating agencies.

**"Qualified Letter of Credit"** means any letter of credit issued by a financial institution for the account of the City on behalf of the Beneficial Owner of any Parity Bond, which institution maintains an office, agency or



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branch in the United States and, as of the time of issuance of such letter of credit, is rated in one of the two highest rating categories by at least two nationally recognized rating agencies.

**"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.

**"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~~))Agency"** 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~~))any nationally((-)) recognized ((~~securities~~ ))rating agency ((~~or agencies~~))then maintaining a rating on a series of 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.~~))

**"Record Date"** means, unless otherwise defined in the Bond Resolution, in the case of each interest or principal payment or redemption date, the Bond Registrar's close of business on the 15th day of the month preceding the interest or principal payment date. With regard to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar's close of business on



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the day prior to the date on which the Bond Registrar sends the notice of redemption.

**"Refundable Bonds"** means, collectively all((~~ or a portion of any Outstanding Parity Bonds, the Refundable Subordinate Lien Bonds and the Bonds, and all or a portion of those Future~~)) Parity Bonds that((~~ have been designated~~)) the City may from time to time designate as Refundable Bonds((~~ in the applicable Parity Bond Ordinance~~)).

((~~"**Refundable Subordinate Lien Bonds**" means, collectively, all or a portion of the City's outstanding Water System Adjustable Rate Revenue Bonds, 1995, Water System Adjustable Rate Revenue Bonds, 2002, Series A, Water System Adjustable Rate Revenue Bonds, 2002, Series B, and all or a portion of any bonds secured by a charge and lien on the Net Revenue of the Municipal Water System equal in rank with the charge and lien securing the foregoing bonds and which have been designated as Refundable Bonds in the ordinance or ordinances authorizing their issuance.~~))

**"Refunded Bond Legislation"** means the respective ordinance and resolution, including all amendatory or supplemental ordinances and resolutions, pursuant to which a series of Refunded Bonds was issued.

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

((~~"**Refunded Bond Legislation**" means the respective Parity Bond Authorizing Ordinances or other ordinance or ordinances pursuant to which the Refunded Bonds were issued.~~))



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**"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~~)) the plan approved in a Bond Resolution to issue a Series, and to apply the proceeds of the sale of such Series and any other available money included in the plan, to redeem, or to defease and redeem, those Refundable Bonds identified in the plan.

**"Refunding Trust Agreement"** means, with respect to each ((~~series of Bonds~~))Series, a refunding trust or escrow agreement, dated as of the Issue Date of such Series, between the City and a Refunding Trustee((~~, dated as of the Closing Date of such series,~~)) and providing for the ((~~safekeeping~~))irrevocable deposit of ((~~certain~~)) Bond proceeds and ((~~the refunding of all or a portion of the Refundable Bonds.~~)) other available money of the City, to be used to carry out a Refunding Plan.

**"Refunding Trustee"** means, for each ((s))Series((~~of Bonds~~)), the Director of Finance, or ((~~the trustee or escrow agent designated~~))a financial institution selected by the Director of Finance((~~, consistent with the Refunded Bond Legislation and any applicable agreements with Bond Insurers~~)) to serve as refunding trustee or escrow agent under a Refunding Trust Agreement.

**"Registered Owner"** means, with regard to a Bond, the person ((~~shown~~))in whose name that Bond is registered on the Bond Register. For so long as the ((~~owner of one or more Bonds~~))City uses a book-entry only system under the Letter of Representations, the Registered Owner shall mean the Securities Depository.



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**"Registration Ordinance"** means City Ordinance 111724 establishing a system of registration for the City's bonds and other obligations pursuant to Seattle Municipal Code Chapter 5.10, as that chapter now exists or may hereafter be amended.

((~~**"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 Security"** means any Qualified Insurance or Qualified Letter of Credit obtained by the City to satisfy part or all of the Reserve Requirement, and which is not cancelable on less than three years' notice.

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

**"Rule 15c2-12"** means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

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

**"Securities Depository"** means ((~~any one of the following registered securities depositories which has been designated by the City: (i) DTC; (ii)~~



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~~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~~))DTC, any successor thereto, any substitute securities depository selected by the City, or the nominee of any of the foregoing. Any successor or substitute Securities Depository must be qualified under applicable laws and regulations to provide the services proposed to be provided by it.

**"Serial Bonds"** means Parity Bonds maturing in specified years, for which no Sinking Fund Requirements are mandated.

**"Series"** means a series of the Bonds issued pursuant to this ordinance.

**"Sinking Fund Requirement"** means, for any calendar year, the principal amount and premium, if any, of Term Bonds required to be purchased, redeemed, paid at maturity or paid into any Parity Bond Account for such calendar year as established by the Parity Bond Legislation authorizing the issuance of such Term Bonds.

**"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.~~))**

**"Tax Credit Subsidy Bond"** means any bond that is designated by the City as a tax credit bond pursuant to the Code, and which is further designated



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as a "qualified bond" under Section 6431 or similar provision of the Code, and with respect to which the City is eligible to claim a tax credit subsidy payment.

**"Tax Credit Subsidy Payment"** means a payment by the federal government with respect to a Tax Credit Subsidy Bond.

**"Tax-Exempt Bond"** means any Bond, the interest on which is intended on the Issue Date to be excluded from gross income for federal income tax purposes.

**"Term Bond((s))"** means((~~those Parity Bonds designated as such in the applicable Parity Bond Authorizing Ordinance.~~)) any Bond that is issued subject to mandatory redemption prior to its maturity in periodic mandatory redemption payments.

**"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.

**"ULID Assessments"** means all assessments levied and collected in a ULID, if ((~~(~~))and only if((~~)~~)) those assessments are pledged to be paid into the ((~~Bond Account, not including~~))Parity Bond Account. ULID Assessments shall include all installments of principal, payments of interest, and penalties and interest on delinquencies, but shall not include 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~~



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~~24.~~))continuing disclosure entered into pursuant to Section 24, in substantially the form attached as Exhibit B.

**"Valuation Date"** means, with respect to any Capital Appreciation Bond, the date or dates set forth in the relevant Parity Bond Legislation or Bond Purchase Contract on which specific Accreted Values are assigned to that Capital Appreciation Bond.

**"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~~))set in accordance with the applicable Parity Bond ((~~Authorizing Ordinance (including a Bond Resolution), which ordinance or resolution also~~))Legislation, which shall specify either (((~~1~~))a) 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~~))b) 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 Bond((s))"** means, for any period of time, any Parity Bond((s)) that bears a Variable Interest Rate during that period, except that a Parity Bond((s)) shall not be treated as a Variable Interest Rate Bond((s)) if the net economic effect of interest rates on a particular Parity Bond((s)) of ((~~an issue~~))a series and interest rates on other Parity Bonds of the same ((~~issue~~))series, as set forth in the applicable Parity Bond ((~~Authorizing Ordinance~~))Legislation, or the net economic effect of a Payment Agreement



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with respect to a particular Parity Bond((s)), in either case is to produce obligations that bear interest at a fixed interest rate; and a Parity Bond((s)) with respect to which a Payment Agreement is in force shall be treated as a Variable Interest Rate Bond((s)) if the net economic effect of the Payment Agreement is to produce ((~~obligations~~))an obligation that bears 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 3.** **Amendment to Section 2 of the Ordinance.** Section 2 of Ordinance 121939 is amended and restated as follows:

**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~~))issue Municipal Water System revenue bonds, payable from the sources described in Section 14, in principal amounts not to exceed the limits stated in Section 4, to carry out one or more Refunding Plans, including paying the administrative costs of carrying out each such Refunding Plan, and to pay the costs of issuance of the Bonds. The Bonds may be issued in one or more ((~~series at any time on or before December 31, 2015,~~))Series 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 designated Municipal Water System revenue bonds and shall be



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numbered separately and shall have any name, year and series or other label as deemed necessary or appropriate by the Director of Finance.

((~~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 4.** **Amendment to Section 3 of the Ordinance.** Section 3 of Ordinance 121939 is deleted in its entirety:

((~~**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~~



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~~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 5.** **<u>Amendment to Section 4 of the Ordinance</u>.** Section 4 of Ordinance 121939 is amended and restated as follows:



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**Section 4.** ((~~**Allocation of the Bonds to the Refunded Bonds**~~))**Bond Sale Terms; Bond Resolution.** ((~~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.~~))The Director of Finance is appointed to serve as the City's designated representative in connection with the issuance and sale of the Bonds in accordance with RCW 39.46.040(2) and this ordinance. The Director of Finance is authorized to accept, on behalf of the City, an offer to purchase the Bonds on Bond Sale Terms consistent with the parameters set forth in this section. No such acceptance shall be effective until adoption of a Bond Resolution approving the Bond Sale Terms. Once adopted, the Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

**(a) Maximum Principal Amount.** The Bonds may be issued in one or more Series and may be combined with other Parity Bonds authorized separately. The aggregate principal amount of the Bonds allocated to each Refunding Plan shall not exceed 125% of the stated principal amount or Accreted Value of the Refunded Bonds included in that Refunding Plan.

**(b) Date or Dates.** Each Bond shall be dated its Issue Date, as determined by the Director of Finance, which shall be determined by the Director of Finance.

**(c) Denominations.** The Bonds shall be issued in Authorized Denominations.



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**(d) Interest Rate(s); Payment Dates.** Each Bond shall bear interest from the Issue Date or from the most recent date to which interest has been paid or duly provided for, whichever is later, and shall be payable on dates determined by the Director of Finance. One or more rates of interest shall be established for each maturity of each Series, which rate or rates may be fixed interest rates or Variable Interest Rates. Fixed interest rates shall be computed on the basis of a 360-day year of twelve 30-day months and the net interest cost shall not exceed a weighted average rate of 10% per annum. Principal payments shall commence on a date and shall be payable at maturity or have Sinking Fund Requirements on dates determined by the Director of Finance.

**(e) Final Maturity.** The Bonds shall mature no later than 40 years after the Issue Date.

**(f) Redemption Rights.** The Bond Sale Terms may include provisions for the optional and mandatory redemption of Bonds determined by the Director of Finance, subject to the following:

**(i) Optional Redemption.** Any Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the redemption prices set forth in the Bond Purchase Contract; or (B) not subject to redemption prior to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

**(ii) Mandatory Redemption.** Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in Sinking Fund Requirements consistent with Section 7(b).



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**(g) Price.** The purchase price for each Series shall be acceptable to the Director of Finance.

**(h) Other Terms and Conditions.**

(i) As of the Issue Date of each Series, (A) the Finance Director must determine that the Parity Conditions have been met or satisfied, so that such Series may be issued as Parity Bonds, and (B) the City Council must find the Bond Resolution that, in creating the Parity Bond Account and in fixing the amounts to be paid into it in accordance with this ordinance, the City Council has had due regard for the cost of maintenance and operation of the Municipal Water System, and is not setting aside into the Parity Bond Account a greater amount than in the judgment of the City Council, based on the rates to be established from time to time consistent with Section 17(b), will be available over and above such cost of maintenance and operation.

(ii) A Series may not be issued unless the Bond Resolution with respect to that Series sets forth a Refunding Plan and includes the findings that:

(A) The Refunding Plan (1) will pay or discharge the City's obligations with respect to Refundable Bonds that are in arrears or about to become due, and for which sufficient funds are not available; (2) is necessary or in the best interest of the City to modify debt service requirements, sources of payment covenants or other terms of the Refunded Bonds; or (3) will effect a savings to the City, giving consideration to the fixed maturities of the Series to be issued and of the Refunded Bonds, the costs of issuance of that Series and the known earned income from the investment of the sale proceeds and other money of the City used in the Refunding Plan; and

(B) the irrevocable deposit of money and securities with the Refunding Trustee in accordance with the Refunding Plan will discharge and satisfy the obligations of the City as to the Refunded Bonds, including all pledges, charges, trusts, covenants and agreements under the Refunded



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Bond Legislation, and immediately upon such deposit, the Refunded Bonds will no longer be deemed to be outstanding under the Refunded Bond Legislation.

(iii) The Bond Sale Terms for any Series may provide for Bond Insurance, a Reserve Security or other credit enhancement, or for a Parity Payment Agreement. To that end, the Bond Sale Terms may include such additional terms, conditions and covenants as may be necessary or desirable, including but not limited to: restrictions on investment of Bond proceeds and pledged funds, and requirements to give notice to or obtain the consent of a credit enhancement provider or a Qualified Counterparty.

(iv) The Bond Sale Terms must establish the method of providing for the Reserve Requirement, consistent with Section 16(a)(ii).

(v) Any Series may be designated or qualified as Tax-Exempt Bonds, Tax Credit Subsidy Bonds, or other taxable bonds, and may include such additional terms and covenants relating to federal tax matters as the Director of Finance deems necessary or appropriate, consistent with Section 23.

**Section 6.** **Amendment to Section 5 of the Ordinance.** Section 5 of Ordinance 121939 is amended and restated as follows:

**Section 5.** **Bond Registrar; Registration and Transfer((~~or Exchange~~)) of Bonds.**

**(a) Registration of Bonds.** The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register.

**(b) Bond Registrar; Transfer and Exchange of Bonds.** The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Register shall contain the name and mailing address of the Registered



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Owner of each Bond and the principal amount and number of each of the Bonds held by each Registered Owner. 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 the Registration Ordinance.

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 an 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 Owners. Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any ((~~a~~))Authorized ((~~d~~))Denomination of an equal aggregate principal amount and of the same ((~~s~~))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~~))period between the Record Date and the corresponding interest payment or redemption date((~~(or other record date established by the Bond Resolution)~~)).

**(c) Securities Depository; Book-Entry Form.** The Bonds initially shall be registered in the name of the Securities Depository. The Bonds so registered shall be held fully immobilized in book-entry form by the Securities



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Depository in accordance with the provisions of the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to participants of the Securities Depository or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by the Securities Depository or its participants of any amount in respect of principal of or interest on the Bonds, or any notice which is permitted or required to be given to Owners hereunder (except such notice as is required to be given by the Bond Registrar to the Securities Depository). Registered ownership of a Bond initially held in book-entry form, or any portion thereof, may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City or such substitute Securities Depository's successor; or (iii) to any person if the Bond is no longer held in book-entry form.

Upon the resignation of the Securities Depository from its functions as depository, or upon a City determination to discontinue services of the Securities Depository, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns from its functions as depository, and no substitute Securities Depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, then ownership of Bonds may be transferred to any person as provided herein and the Bonds no longer shall be held in book-entry form.

((~~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~~



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~~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.~~))



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((~~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~~



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~~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~~



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~~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~~



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~~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 7.** **Amendment to Section 6 of the Ordinance.** Section 6 of Ordinance 121939 is deleted in its entirety:

((~~**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~~



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~~otherwise handling mutilated, lost, stolen or destroyed Bonds, then the provisions of State law shall prevail.~~))

**Section 8.** **Amendment to Section 7 of the Ordinance.** Section 7 of Ordinance 121939 is renumbered as Section 6 and is amended and restated as follows:

**Section ((~~7~~))6.Payment of Bonds((~~ Principal and Interest~~)).** Principal of((~~, premium, if any,~~)) and interest on((~~ the Bonds~~)) each Bond shall be payable solely out of the Parity Bond Account, 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~~)) Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner((~~s~~)) at the address((~~es~~)) 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~~))Record Date. However, the City is not required to make electronic transfers except pursuant to a request by 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~~))in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of ((~~and premium, if any, on the Bonds shall be~~))each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond((~~s~~)) by the



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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.~~))Owner to the Bond Registrar.((~~The Bonds shall be payable solely out of the Bond Account and shall not be general obligations of the City.~~)) The Bonds are not subject to acceleration under any circumstances.

**Section 9.** **Amendment to Section 8 of the Ordinance.** Section 8 of Ordinance 121939 is renumbered as Section 7 and is amended and restated as follows:

**Section ((8)) 7.** **Redemption and((~~Open Market~~)) Purchase of Bonds.**

**(a)** **Optional Redemption.** All or some of the Bonds may be subject to redemption prior to their stated maturity dates at the option of the City at the times and on the terms ((~~set forth in the Bond Resolution~~))approved in accordance with Section 4.

**(b)** **Mandatory Redemption.** ((~~The City shall redeem any Term Bonds, if~~))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~~))or purchased at the City's option prior to maturity, Term Bonds (if any) shall be redeemed, at a price equal to the principal amount thereof to be redeemed plus accrued interest, on the dates and in the ((~~years and principal amounts~~))Sinking Fund Requirements as set forth in the Bond Resolution. If the City redeems ((~~Term Bonds under the optional redemption~~



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~~provisions set forth in the Bond Resolution~~ ))or purchases Term Bonds ((~~in~~))at the((~~open market as set forth below~~)) City's option prior to maturity, the Term Bonds so redeemed or purchased (irrespective of their redemption or purchase prices) shall be credited at the par amount thereof against the remaining ((~~mandatory redemption requirements in a manner to be~~))Sinking Fund Requirements as determined by the Director of Finance((~~or, if no such~~)). In the absence of a determination ((~~is made, on a pro~~ ))by the Director of Finance or other direction in the Bond Resolution, credit shall be allocated on a pro rata basis.

**(c) Selection of Bonds for Redemption; 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~~))If fewer than all of the outstanding Bonds are to be redeemed at the option of the City, the Director of Finance shall select the Series and maturity or maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity of a Series are to be redeemed, the Securities Depository shall select Bonds registered in the name of ((~~DTC or its nominee, DTC shall select the Bonds or portions thereof~~))the Securities Depository 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,~~)), and the Bond Registrar shall select all other Bonds to be



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redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed((~~, unless otherwise provided in the Bond Resolution.~~)) in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond ((~~at either of the principal offices of~~))to 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 ((~~s~~))Series, maturity and interest rate in any ((~~of the denominations authorized by the Bond Resolution~~))Authorized Denomination in the aggregate ((~~total~~))principal amount ((~~remaining unredeemed~~))to remain outstanding.

**(d) ((~~Open Market~~))Purchase.** The City reserves the right and option to purchase any or all of the Bonds ((~~in~~))offered to the ((~~open market~~))City 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 10. Amendment to Section 9 of the Ordinance.** Section 9 of Ordinance 121939 is renumbered as Section 8 and is amended and restated as follows:

**Section ((~~9~~))8.Notice of Redemption.** The City shall cause notice of any intended redemption of Bonds to be given not less than ((~~30~~))20 nor more



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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~~))on the Record Date, 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.~~))

In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is rescinded by the Director of Finance shall be of no effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.



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**Section 11.** **Amendment to Section 10 of the Ordinance.** Section 10 of Ordinance 121939 is renumbered as Section 9 and is amended and restated as follows:

**Section ((~~10~~))9.** **Failure to ((~~Redeem~~))Pay Bonds.** If any Bond is not ((~~redeemed~~))paid when properly presented at its maturity or ((~~call~~))redemption date, the City shall be obligated to pay, solely from the Parity Bond Account and the other sources pledged in this ordinance, interest on that Bond at the same rate provided in th((~~e~~))at Bond from and after its maturity or ((~~call~~))redemption 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 Parity Bond Account and th((~~e~~))at Bond has been called for payment by giving notice of that call to the Registered Owner of ((~~each of those unpaid Bonds~~))that Bond.

**Section 12.** **Amendment to Section 11 of the Ordinance.** Section 11 of Ordinance 121939 is renumbered as Section 10 is amended and restated as follows:

**Section ((~~11~~))10.** **Form and Execution of Bonds.** The Bonds shall be typed, ((~~photocopied,~~ ))printed or ((~~lithographed on good bond paper~~))reproduced 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 ((~~C~~))certificate of ((~~A~~))authentication in substantially the following form (with the designation, year((~~,~~)) and ((~~series of the Bonds completed~~))Series adjusted consistent with this ordinance), manually



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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 Revenue Refunding ((~~Revenue~~ ))Bonds], [Year], [Series], described in ((~~the Bond Ordinance.~~ ))[this ordinance]." ((~~WASHINGTON STATE FISCAL AGENCY Bond Registrar By: Authorized Signer~~)) The authorized signing of a ((~~C~~))certificate of ((~~A~~))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 manual or facsimile signature appears on ((~~the~~))a Bond((~~s~~)) ceases to be an officer of the City authorized to sign bonds before the Bond((~~s~~)) bearing his or her manual or facsimile signature ((~~are~~))is authenticated or delivered by the Bond Registrar or issued by the City, ((~~those~~))that Bond((~~s~~)) 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 13.** **Amendment to Section 12 of the Ordinance.** Section 12 of Ordinance 121939 is deleted in its entirety:

((~~**Section 12. Bond Registrar.** The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the~~



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~~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 14.** **<u>Amendment to Section 13 of the Ordinance</u>.** Section 13 of Ordinance 121939 is renumbered as Section 16 and is amended and restated as follows:



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**Section ((~~13~~))16. Parity Bond Account.** ((~~Ordinance 116705 created the Water Revenue~~))The Parity Bond Account (((~~the "Bond Account") in the Water Fund and further~~))is divided ((~~the Bond Account~~ ))into two subaccounts: the Principal and Interest Subaccount and the Reserve Subaccount. The Director of Finance may create sinking fund subaccounts or other subaccounts in the Parity 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 Parity Bonds.

**(a) Required Payments Into Parity Bond Account.** So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Parity 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~~))i) Into the Principal and Interest Subaccount (((~~i~~))A) upon receipt thereof, the accrued interest, if any, received by the City from the ((~~purchaser of the Bonds~~))Purchaser, and (((~~ii~~))B) 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 and Sinking Fund Requirements, 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~~))ii) Into the Reserve Subaccount((~~, in approximately equal annual payments, amounts~~)) an amount 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~~))provide for the Reserve Requirement for the Parity Bonds within the time and in



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the manner required by this ordinance and the Parity Bond Legislation. The amount necessary to satisfy the Reserve Requirement upon the issuance of a Series may be funded (i) on the Issue Date, by a deposit from the bond sale proceeds or a Reserve Security, or (ii) in annual installments from Net Revenue so that the Reserve Requirement is fully funded by the fifth anniversary of the Issue Date. The manner of funding the Reserve Requirement for the Bonds shall be set forth in the Bond Resolution. 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.

The City may provide all or any part of the Reserve Requirement through a Reserve ((~~Insurance, and~~))Security, subject to the following: (A) the amount available to be drawn upon under ((~~that~~))a Reserve ((~~Insurance~~))Security 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~~)); and (B) 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~~))Security, the City shall either (1) substitute a Reserve ((~~Insurance~~))Security in the amount required to make up the deficiency created in the Reserve Subaccount, or ((~~in the alternative shall~~))(2) 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~~))becomes effective. 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~~))Security to make up all or



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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~~))a substitute Reserve ((~~Insurance~~))Security is obtained.

The Director of Finance may transfer any money from any funds or accounts of the City legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Parity Bond Account. The Director of Finance may provide for the purchase, redemption or defeasance of any Parity Bonds by the use of money on deposit in any subaccount in the Parity 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.

**(b) Reserve Subaccount.** ((~~Except for withdrawals therefrom and payments over time as authorized herein, the Reserve Subaccount shall be maintained~~))The City covenants that it will at all times so long as any Parity Bonds are outstanding, maintain the Reserve Subaccount at the Reserve Requirement (taking into account scheduled payments to fund the Reserve Requirement over time), 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.~~)) except for withdrawals as authorized by this ordinance. The Director of Finance may make withdrawals of cash from the Reserve Subaccount in the event of ((~~In the event that there shall be~~ ))a deficiency in the Principal and Interest Subaccount to meet maturing installments of either principal (or Sinking



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Fund Requirements) 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~~))Parity Bonds, and when the total amount in the Parity Bond Account (including investment earnings) equals the total amount of principal and interest for all then-outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Parity Bond Account. 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~~



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~~satisfy the required deposits in those subaccounts for the remaining Parity Bonds.~~))

**(c) Investment of Money in Parity Bond Account.** All money in the Parity Bond Account may be kept in cash or invested in ((~~legal investments maturing, for investments in the Principal and Interest Subaccount,~~))Permitted Investments maturing not later than the ((~~dates when the funds are required for the payment of principal of~~ ))date when needed (for investments in the Principal and Interest Subaccount) or the last maturity of any outstanding Parity Bonds (for investments in the Reserve Subaccount). In no event shall any money in the Parity Bond Account or any other money reasonably expected to be used to pay principal and/or interest on the Parity Bonds be invested at a yield which would cause any Series issued as Tax-Exempt Bonds or Tax Credit Subsidy Bonds to be arbitrage bonds within the meaning of Section 148 of the Code. Income from investments in the Principal and Interest Subaccount shall be deposited in that subaccount. ((~~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.~~ ))Income from investments in the Reserve Subaccount shall be deposited in that subaccount until the amount therein is equal to the Reserve Requirement for all Parity Bonds, and thereafter shall be deposited in the Principal and Interest Subaccount. Notwithstanding the provisions for ((~~the~~ ))deposit or retention of earnings in the Parity Bond



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Account, any earnings ((~~that~~))which are subject to a federal ((~~arbitrage~~))tax or rebate requirement((~~s~~)) may be withdrawn from the Parity Bond Account for deposit ((~~into~~))in a separate fund or account ((~~created~~ ))for ((~~the purpose of compliance with those rebate requirements~~))that purpose. If no longer required for such rebate, money in that separate fund or account shall be returned to the Parity Bond Account.((~~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.~~))

**(d) Failure to Deposit Money in Parity Bond Account.** If the City fails to set aside and pay into the Parity Bond Account, or the subaccounts therein, the amounts set forth above, the registered owner of any of the outstanding Parity Bonds may bring action against the City for failure to make the required deposits to the Parity Bond Account only in accordance with Section 26 regarding Events of Default.

**Section 15. Amendment to Section 14 of the Ordinance.** Section 14 of Ordinance 121939 is renumbered as Section 19 and is amended and restated as follows:

**Section ((~~14~~))19. Rate Stabilization Account.** The Rate Stabilization Account has been created as a separate account in the Water Fund. The City may at any time, as determined by the ((~~City and as consistent with Section 18 of this ordinance~~))Director of Finance, 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~~))for this purpose, consistent with Section 15. The Director of Finance



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may, upon authorization by resolution of the City Council, 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~~))may 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 16. Amendment to Section 15 of the Ordinance.** Section 15 of Ordinance 121939 is deleted in its entirety:

((~~**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~~



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~~Gross Revenue than in the judgment of the City will be available over and above the Operation and Maintenance Expenses.~~))

**Section 17.** **Amendment to Section 16 of the Ordinance.** Section 16 of Ordinance 121939 is renumbered as Section 14 and is amended and restated as follows:

**Section ((~~16~~))14.** **((~~Pledge of Net Revenue and Lien Position~~)) Security for the Bonds; Parity with other Bonds.** The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue((~~ of the Municipal Water System~~)) and ULID Assessments, and by(( ~~all~~)) money ((~~and investments held~~))in the Parity Bond Account and the ((~~Rate Stabilization Account~~))subaccounts therein. The Net Revenue and all ULID Assessments, and all money and investments held in the Parity Bond Account, the Rate Stabilization Account and the Construction Account (except money and investments held in a separate fund or account created for the purpose of compliance with rebate requirements under the Code), ((~~is~~))are 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 the Parity Bond Legislation.((~~ and this~~)) This pledge shall constitute a ((~~lien and charge~~))charge and lien upon the Net Revenue prior and superior to any other charges whatsoever.

The Bonds shall be on a parity with the Outstanding Parity Bonds and all Future Parity Bonds, without regard to date of issuance or authorization and without preference or priority of right or lien. Nothing in this ordinance prevents the City from issuing revenue bonds or other obligations which are a charge or



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lien upon the Net Revenues subordinate to the payments required to be made from Net Revenue into the Parity Bond Account and the subaccounts therein.

The Bonds shall not constitute general obligations of the City, the State or any political subdivision of the State or a charge upon any general fund or upon any money or other property of the City, the State or any political subdivision of the State not specifically pledged by this ordinance.

**Section 18.** **Amendment to Section 17 of the Ordinance.** Section 17 of Ordinance 121939 is amended and restated as follows:

**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 pay all Operating and Maintenance Expense and otherwise meet the obligations of the City under this ordinance. 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, revise as necessary, and collect rates and charges for services and facilities provided by the Municipal Water System which will be



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fair and equitable, and will adjust those rates and charges from time to time so that:

((~~1~~))i) The Gross Revenue will be sufficient to ((~~i~~))A) pay all Operati((~~o~~))ng and Maintenance Expense((~~s~~)), ((~~ii~~))B) pay when due all amounts that the City is obligated to pay into the Parity Bond Account and the subaccounts therein, and ((~~iii~~))C) 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~~))ii) The Adjusted Net Revenue ((~~of the Municipal Water System~~ ))in each fiscal year will be at least equal to the Coverage Requirement; and

((~~3~~))iii) 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~~))i) and ((~~2) of this paragraph (b)~~))ii) above shall not be an Event of Default if the City promptly retains an Independent ((~~Consulting Engineer~~))Utility Consultant 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



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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~~))i) The City in its discretion may carry out such a sale, transfer or disposition (each, as used in this ((~~subparagraph~~))section, 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~~))ii) 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)~~))subsection in any fiscal year comprises no more than ((~~three percent~~))3% of the total assets of the Municipal Water System; or

((~~3~~))iii) 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)~~))subsection, the City must obtain a certificate of an Independent ((~~Consulting Engineer~~))Utility Consultant 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,



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(((~~w~~))A) the reduction in revenue resulting from the transfer; (((~~x~~))B) the use of any proceeds of the transfer for the redemption of Parity Bonds, (((~~y~~))C) the Independent ((~~Consulting Engineer~~))Utility Consultant'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~~))D) any other adjustment permitted in the preparation of a certificate under Section ((~~19~~))18(((~~f~~))a)(((~~2~~))vi)(B)((~~of this ordinance~~)). Before such a transfer, the City also must obtain confirmation from each((~~of the~~)) Rating Agenc((~~ies~~))y 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~~))i) 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~~))ii) 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)~~))subsection in*



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*any fiscal year comprises no more than ((~~five percent (~~))5%((~~)~~)) of the total assets of the Municipal Water System; or*

*(((~~3~~))iii) 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~~))18(a)(vi)(B). 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,



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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~~))Records.** 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 Parity 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 Bond((~~s~~)) upon written request ((~~therefor being made to~~))received by 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 ((o))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.



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**Section 19.** **Amendment to Section 18 of the Ordinance.** Section 18 of Ordinance 121939 is renumbered as Section 15 and is amended and restated as follows:

**Section ((~~18~~))15.** **Priority Expenditure of Gross Revenue; 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~~))Operating and Maintenance Expense((~~s~~));

(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~~))to meet Sinking Fund Requirements, and to make payments due under any((~~ reimbursement~~)) agreement with a ((~~Bond Insurer~~))provider of a Reserve Security 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, to make all payments required to be made under any agreement ((~~relating to the provision of~~))with a provider of a Reserve ((~~Insurance, and payments due under any reimbursement agreement with a Bond Insurer~~))Security, which agreement requires those payments to be treated on a parity of lien with the payments required to be made into the Reserve



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Subaccount, and to make the deposits required to be made into a special account in the Water Fund upon the expiration of a Reserve Security, in accordance with Section 16(a)(ii);

(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~~)) subordinate 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 pay City taxes or other payments in lieu of taxes payable from Gross Revenue; 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 20.** **Amendment to Section 19 of the Ordinance.** Section 19 of Ordinance 121939 is renumbered as Section 18 and is amended and restated as follows:

**Section ((~~19~~))18.** ((~~**Provisions for**~~ ))**Future Parity Bonds.**



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

(((~~b~~))ii) The Future 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,~~))Legislation must provide that all ULID Assessments shall be paid directly into the Parity Bond Account((~~, except for any prepaid assessments permitted by law to be paid into a construction fund or account~~)).

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

(((~~d~~))iv) The Future Parity Bond ((~~Authorizing Ordinance shall~~))Legislation must 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~~))any Sinking Fund Requirements from money in the Principal and Interest Subaccount.

(((~~e~~))v)The Future Parity Bond ((~~Authorizing Ordinance shall~~))Legislation must provide for the deposit into the Reserve Subaccount of (((~~i~~))A) 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



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available((~~,~~)); (B) one or ((~~ii~~))more Reserve ((~~Insurance~~))Securities or an amount plus Reserve ((~~Insurance~~))Securities necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds, or ((~~iii~~))C) 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~~))vi) There shall be on file with the City either:

((~~1~~))A) ((~~a~~))A certificate of the Director of Finance demonstrating that during any ((~~twelve~~))12 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~~))12 month period was the Average Annual Debt Service for those proposed bonds); or

((~~2~~))B) ((~~a~~))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~~))that office), that in their opinion((~~the~~)), Adjusted Net Revenue for the five fiscal years next following the earlier of (((~~A~~))1) 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~~))2) 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~~))1) through (((~~iv~~))4) below, will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments:



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(((~~i~~))1) 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~~))2) 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~~))3) 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~~))4) 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.

(b) Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds, money for the payment of



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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~~))subordinate lien bonds as long as such ULID assessments are levied for improvements constructed from the proceeds of those ((~~junior~~))subordinate lien bonds.

**Section 21. Amendment to Section 20 of the Ordinance.** Section 20 of Ordinance 121939 is renumbered as Section 11 and is amended and restated as follows:

**Section ((~~20~~))11. ((~~Reimbursement Obligations~~))Deposit and Use of Proceeds.** ((~~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.~~))Unless provided otherwise in the Bond Resolution, the principal proceeds and premium, if any received from the sale of each Series, in the amount necessary to carry out the Refunding Plan (including payment of costs of issuance and administrative costs of carrying out the refunding) approved in connection with such Series, shall be deposited with the Refunding Trustee and used in accordance with the provisions of Section 12 to discharge the obligations of the City relating to the Refunded Bonds.

To the extent not necessary to carry out the Refunding Plan, excess proceeds received from the sale of a Series (including interest earnings thereon) shall be deposited into such funds, subfunds, accounts and subaccounts as the



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Director of Finance shall determine, consistent with the Bond Resolution. The Director of Finance may apply any amounts remaining after the costs of issuance and the administrative costs of the Refunding Plan have been paid (or after the City Council has determined that the expenditure of such amounts for those purposes is no longer necessary or appropriate) to pay principal of and interest on that Series or for any other purposes approved by ordinance or by the Bond Resolution.

**Section 22.** **Amendment to Section 21 of the Ordinance.** Section 21 of Ordinance 121939 is renumbered as Section 20 and is amended and restated as follows:

**Section ((~~21~~))20.** **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 relating to the Municipal Water System. 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~~))a) as a Contract Resource Obligation((~~upon compliance with Section 22 hereof and/or (2)~~)), or (b) with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.



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**Section 23.** **Amendment to Section 22 of the Ordinance.** Section 22 of Ordinance 121939 is renumbered as Section 21 and is amended and restated as follows:

**Section ((~~22~~))21.** **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((~~.~~)), as follows:

(a) 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~~))an Operating and Maintenance Expense((~~s~~)) if the following requirements are met at the time such a Contract Resource Obligation is entered into:

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

(((~~b~~))ii) There shall be on file a certificate of an Independent ((~~Consulting Engineer~~))Utility Consultant stating that (((~~i~~))A) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the supply or transmission rendered; (((~~ii~~))B) 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~~))Utility Consultant's certification; and (((~~iii~~))C) the Adjusted Net Revenue (further adjusted by the Independent ((~~Consulting Engineer~~))Utility Consultant's estimate of the payments to be



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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~~))Utility Consultant in accordance with the provisions of and adjustments permitted in Section ((~~19~~))18(((~~f~~))a)(((~~2~~))vi)(B)((~~ of this ordinance~~)), will be at least equal to the Coverage Requirement.

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

(c) Nothing in this ((~~S~~))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~~))Operating and Maintenance Expense((~~s~~)). Nothing in this ((~~S~~))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 and lien on Net Revenue subordinate to that of Parity Bonds.

**Section 24. Amendment to Section 23 of the Ordinance.** Section 23 of Ordinance 121939 is amended and restated as follows:

**Section 23. ((~~Preservation of Tax Exemption for Interest on~~ ))Provisions Relating To Certain Federal Tax Consequences of the Bonds.**

**(a) Tax-Exempt Bonds.** The City covenants that it will take all actions consistent with the terms of ((~~the~~ ))any Series issued as Tax-Exempt Bonds, this ordinance and the Bond Resolution, reasonably within its power and



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necessary to prevent interest on ((~~the Bonds~~))that Series from being included in gross income for federal income tax purposes, and ((~~it~~))the City will neither take any action nor make or permit any use of proceeds of ((~~the Bonds~~))such Series or other funds of the City treated as proceeds of the ((~~Bonds~~))Series at any time during the term of the ((~~Bonds~~))Series which will cause interest on the ((~~Bonds~~))Series to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to any Series issued as Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with that Series, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on such Series from being 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 it is a bond issuer whose arbitrage certifications may not be relied upon.~~))

**(b) Tax-Credit Subsidy Bonds or other Taxable Bonds.** The Director of Finance may, without further action by the Council, make provision in the Bonds or other written document for such additional covenants of the City as may be necessary or appropriate in order for the City to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series issued as Tax Credit Subsidy Bonds or otherwise become and remain eligible for tax benefits under the Code.



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**Section 25.** **Amendment to Section 24 of the Ordinance.** Section 24 of Ordinance 121939 is renumbered as Section 24 and is amended and restated as follows:

**Section ((~~24~~))24.** **Official Statement; Continuing Disclosure.**

**(a) Preliminary Official Statement.** The Director of Finance and other appropriate City officials are directed to cause the preparation of and review the form of a preliminary official statement in connection with each sale of one or more Series to the public. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Director of Finance is authorized to deem that preliminary official statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary official statement that has been deemed final in accordance with this substitution.

**(b) Final Official Statement.** The City approves the preparation of a final official statement for each sale of one or more Series to be sold to the public in the form of the preliminary official statement with such modifications and amendments as the Director of Finance deems necessary or desirable, and further authorizes the Director of Finance to execute and deliver such final official statement to the Purchaser. The City authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of the Bonds.

**(c) Undertaking to Provide 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~~



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~~official statement, if any, 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. The particular terms of the undertaking shall be set forth in the Bond Resolution.~~))To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for a Series, the Director of Finance is authorized to execute the written Undertaking in substantially the form attached as Exhibit B.

**Section 26. Amendment to Section 25 of the Ordinance.** Section 25 of Ordinance 121939 is renumbered as Section 22 and is amended and restated as follows:

**Section ((~~25~~))22. ((~~Advance~~ ))Refunding or Defeasance of Bonds.** The Bonds are hereby designated "Refundable Bonds" for purposes of this ordinance, as it may be amended from time to time. 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 when due the principal of, premium, if any, and interest on ((~~the~~))any Bond((~~s~~)), 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 those Bonds (the "((~~D~~))defeased Bonds") and to pay the costs of such refunding or defeasance. ((~~In the event that~~))If money and/or Government Obligations ((~~sufficient in~~))maturing at a time or times and in an amount sufficient, together with known earned income from the investment((~~s~~)) thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside((~~ irrevocably~~)) in a special trust fund ((~~for and~~))or escrow account irrevocably pledged((~~ irrevocably~~)) to such redemption, retirement or



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defeasance (the "trust account"), then all right and interest of the ((~~o~~))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 ((~~o~~))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 fully funding ((~~of~~ ))such a trust account, the ((~~City~~))defeased Bonds shall be deemed as no longer outstanding, and the Director of Finance 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~~)). Notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner set forth in this ordinance for the redemption of Bonds.

If the refunding or defeasance plan provides that the defeased Bonds or the refunding bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding or defeasance 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 or defeasance 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



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Bonds and the annual computation of the Coverage Requirement for determining compliance with the rate covenants.

**Section 27. Amendment to Section 26 of the Ordinance.** Section 26 of Ordinance 121939 is renumbered as Section 25 and is amended and restated as follows:

**Section ((~~26~~))25. Supplemental or Amendatory Ordinances.**

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

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

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

((~~2~~))ii) To impose upon the Bond Registrar (with its consent) for the benefit of the owners of ((~~the~~))any Parity 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~~))iii) 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;



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((~~(4)~~))iv) 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)~~))v)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)~~))vi) To comply with any future federal law or interpretation to preserve the exclusion of the interest on the Tax-Exempt Bonds from gross income for federal income tax purposes and the entitlement of the City to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series sold and issued as Tax Credit Subsidy Bonds;

((~~(7)~~))vii) ((~~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~~))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;~~)) section; and

((~~(8)~~))viii) 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~~))Bond Insurance or provider of a Reserve Security and which are not materially adverse to the owners of the Parity Bonds.

Before the City ((~~shall adopt~~))may pass any such supplemental or amendatory ordinance pursuant to this subsection((~~(b)~~)), there ((~~shall have been~~))must be delivered to the City ((~~and the Bond Registrar~~))an opinion of Bond Counsel, stating that such supplemental or amendatory ordinance is authorized or permitted by this ordinance and, upon the ((~~execution and~~



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~~delivery~~))effective date 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~~))any Tax-Exempt Bonds.

(c((~~)—(1)~~))) Except for any supplemental or amendatory ordinance ((~~entered into~~))passed pursuant to subsection (b) of this ((~~S~~))section, subject to the terms and provisions contained in this subsection (c) and not otherwise((~~, Registered Owners~~)):

(i) With the consent of 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~~))then outstanding, the City Council may pass any supplemental or amendatory 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~~)). However, unless approved in writing by the ((~~R~~))registered ((~~O~~))owner((~~s~~))((~~of all~~)) of each Parity ((~~Bonds~~))Bond then outstanding, nothing contained in this ((~~S~~))section shall permit, or be construed as permitting((~~:~~)) (((~~i)—~~))A) 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~~))B)((~~A~~)) a preference or priority of any Parity Bond ((~~or Bonds or~~))over any other ((~~bond or bonds~~))Parity Bond, or (((~~iii~~))C)((~~A~~)) 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~~))ii) If at any time the City ((~~shall~~))Council passes((~~any~~)) a supplemental or amendatory ordinance for any of the purposes of this subsection (c), the Bond Registrar shall cause notice of the



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proposed supplemental or amendatory ordinance to be given by first((-))-class United States mail to all ((~~R~~))registered ((~~O~~))owners of the then outstanding Parity Bonds, to ((~~any~~))each provider of Bond ((~~Insurer~~))Insurance or a Reserve Security, and to ((~~the~~))each Rating ((~~Agencies if the Bonds are rated by those agencies.~~ ))Agency. Such notice shall briefly set forth the nature of the proposed supplemental or amendatory ordinance and shall state that a copy ((~~thereof~~ ))is on file at the office of the ((~~Bond Registrar~~))City Clerk for inspection by all ((~~Registered Owners~~))owners of the outstanding Parity Bonds.

(((~~3~~))iii) Within two years after the date of the mailing of such notice, ((~~the City may adopt~~ ))such supplemental or amendatory ordinance((~~in~~)), substantially ((~~the form~~))as described in such notice, may go into effect, but only if there shall have first been delivered to the Bond Registrar (((~~i~~))A) the required consents, in writing, of ((~~the Registered Owners~~))registered owners of the Parity Bonds, and (((~~ii~~))B) an opinion of ((~~b~~))Bond ((~~c~~))Counsel stating that such supplemental or amendatory ordinance is authorized or permitted by this ordinance and, upon the ((~~execution and delivery~~))effective date 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~~))any Tax-Exempt Bonds.

(((4))iv) If ((~~R~~))registered ((~~O~~))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~~))passage of such a supplemental or amendatory ordinance, no owner of ((~~the~~))a Parity Bond((~~s~~)) 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 from passing the same or the City, any authorized official thereof, or the Bond Registrar from ((~~passing the same or from~~ ))taking any action pursuant to the provisions thereof.



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(d) The Registered Owners from time to time of the outstanding Bonds, by taking and holding the same, shall be deemed to have consented to the adoption by the City of any supplemental or amendatory ordinance or resolution passed pursuant to the provisions of this section for any one or more of the following purposes:

(i) When calculating "Annual Debt Service," to permit or require Tax Credit Subsidy Payments expected to be received by the City in any period to be credited against amounts required to be paid in respect of interest on the Parity Bonds in that period; and

(ii) To permit or require Tax Credit Subsidy Payments to be deposited into the Principal and Interest Subaccount and credited against the Net Revenue otherwise required to be deposited into the Principal and Interest Subaccount.

(e) Upon the ((~~execution and delivery~~))effective date of any supplemental or amendatory ordinance pursuant to the provisions of this ((~~S~~))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 28. Amendment to Section 27 of the Ordinance.** Section 27 of Ordinance 121939 is renumbered as Section 26 and is amended and restated as follows:

**Section ((~~27~~))26. Defaults and Remedies.**

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



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((~~1~~))i) 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~~))ii) 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~~))in any Parity Bond Legislation (except as otherwise provided herein or in such Parity Bond ((~~Authorizing Ordinance~~))Legislation) 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 ((~~R~~))registered ((~~O~~))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((~~.~~)); or

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

Notwithstanding anything in this section to the contrary, the failure of the City or any obligated person to comply with the Undertaking shall not constitute an Event of Default under this ordinance, the Bond Resolution or the Bonds, 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.

**(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



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the ((~~R~~))registered ((~~O~~))owners of 25% in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))owners of a majority in principal amount of the Parity Bonds, by an instrument or concurrent instruments in writing signed and acknowledged by such ((~~R~~))registered ((~~O~~))owners of the Parity 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 ((~~R~~))registered ((~~O~~))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.



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The Bond Owners' Trustee appointed in the manner herein provided, and each successor thereto, is declared to be a trustee for the ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))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 ((~~S~~))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 ((~~R~~))registered ((~~O~~))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~~))Owners' Trustee 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



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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 ((~~R~~))registered ((~~O~~))owners of those Parity Bonds, subject to the provisions of this ordinance. The respective ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))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 ((~~R~~))registered ((~~O~~))owner of the Parity Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or any right of any ((~~o~~))Owner thereof, or to authorize or empower the Bond Owners' Trustee to vote the claims of the ((~~R~~))registered ((~~O~~))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 ((~~S~~))section shall be applied in the following order of priority:



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(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



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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 ((~~R~~))registered ((~~O~~))owner of any Parity Bond until his or her 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 Parity 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; and

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



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(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; and

(iv) the ((~~R~~))registered ((~~O~~))owners of 25% in principal amount of the Parity Bonds, after the occurrence of such Event of Default, ha((~~s~~))ve 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; and

(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 or her 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 ((~~R~~))registered ((~~O~~))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 29.** **Amendment to Section 28 of the Ordinance.** Section 28 of Ordinance 121939 is renumbered as Section 12 and is amended and restated as follows:

**Section ((~~28~~))12.** ((~~**Execution of**~~ ))**The Refunding Plan.**



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**(a) Approval of Refunding Plan; 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.~~))The Bond Resolution shall approve a Refunding Plan for each Series, which shall provide for the issuance of the Series, shall identify the Refundable Bonds to be refunded, shall allocate the Bonds among the various Refunded Bonds, shall describe the method for carrying out the refunding of the Refunded Bonds, and shall appoint the Refunding Trustee. The Refunding Plan shall be carried out, and proceeds of the ((~~Bonds~~))Series shall be applied, in accordance with this ordinance, the respective Refunded Bond Legislation, the Bond Resolution and the laws of the State.

**(b) ~~Use of Bond Proceeds;~~ Acquisition 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.~~ ))To the extent practicable, ((~~such obligations~~))the Refunding Plan shall ((~~be discharged fully by~~))provide for 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 amounts required to be paid by the Refunding Plan. The Acquired Obligations shall be listed and



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more particularly described in a schedule attached to the Refunding Trust Agreement, ((~~and shall be~~))but are subject to substitution as set forth ((~~therein.~~))in subsection (c) below.

**(c) Substitution of Acquired Obligations.** The City reserves the right at any time to substitute cash or Government Obligations for the Acquired Obligations if the City obtains a verification by a nationally recognized independent certified public accounting firm reasonably acceptable to the Refunding Trustee confirming that the payments of principal of and interest on the substitute Government Obligations, if paid when due, together with the cash to be held by the Refunding Trustee, will be sufficient to carry out the Refunding Plan. If the applicable Series (or series of the Refunded Bonds) were issued as Tax-Exempt Bonds, then prior to such substitution, the City must also obtain an opinion from Bond Counsel to the effect that the disposition and substitution or purchase of such securities will not cause the interest on the applicable Series (or series of the Refunded Bonds) issued as Tax-Exempt Bonds to be included in gross income for federal income tax purposes and that such disposition and substitution or purchase is in compliance with the statutes and regulations applicable to the Series. 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~~ ))may be used for any lawful City purpose.

**(((e))d)((~~Administration of Refunding Plan.~~))Refunding Trust Agreement.** In connection with each Series, the Director of Finance is authorized to execute a Refunding Trust Agreement with a Refunding Trustee,



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setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with carrying out the Refunding Plan. Each Refunding Trust Agreement shall, among other things, authorize and direct the Refunding Trustee to use the money deposited with it((~~The Refunding Trustee is authorized and directed~~)) to purchase the Acquired Obligations (or substitute obligations) and to apply such money along with the maturing principal of and interest on such obligations 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~~)). The money deposited with the Refunding Trustee, including the Acquired Obligations and any ((~~income therefrom~~))investment earnings, shall be held irrevocably, invested and applied in accordance with the provisions of the respective 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.~~))law. All administrative costs (including without limitation, 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.~~)) Refunding Plan) and costs of issuance may, in the discretion of the Director of Finance, be paid out of the amounts deposited with the Refunding Trustee or other available money of the City.



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((~~(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 30.** **Amendment to Section 29 of the Ordinance.** Section 29 of Ordinance 121939 is renumbered as Section 13 and is amended and restated as follows:

**Section ((~~29.~~))13.** **Call for Redemption of the Refunded Bonds.** ((~~As a part of the Refunding Plan, the~~))The City may in the Bond Resolution call, or authorize the Director of Finance to call, the Refunded Bonds for redemption. Such call for redemption of the Refunded Bonds shall ((~~specify~~))identify the Refunded Bonds, call dates and redemption prices (expressed as a percentage of the stated principal amount, plus accrued interest), 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~~))Issue Date of the applicable Series. The proper City officials 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 Refunded Bond Legislation, in order to carry out the Refunding Plan.



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((~~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 31.** **Amendment to Section 30 of the Ordinance.** Section 30 of Ordinance 121939 is deleted in its entirety:

((~~**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 32.** **Amendment to Section 31 of the Ordinance.** Section 31 of Ordinance 121939 is renumbered as Section 3 and is amended and restated as follows:

**Section ((~~31.~~))3.** **Manner of Sale of Bonds.** At least ((~~10~~))ten days before the ((~~City Council adopts a Bond Resolution for a series~~))date selected by the Director of Finance for the sale of 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 ((s))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



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such notice, the Director of Finance may provide for the sale of ((~~that series of Bonds (or any portion thereof)~~ ))each Series by public sale, or by a negotiated sale((~~ with an underwriter or other financial institution~~)), limited offering or private placement with a Purchaser 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,~~))and a date and time for delivery of each Series; to give notice of that sale((~~,~~)); to determine any bid parameters or other 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 in order 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.~~))each Series. Each Series must be sold on Bond Sale Terms in accordance with Section 4.

((~~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~~



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~~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 33.** **Amendment to Section 32 of the Ordinance.** Section 32 of Ordinance 121939 is renumbered as Section 27 and is amended and restated as follows:

**Section ((~~32~~))27.** **General Authorization.** ((~~The~~))In addition to the specific authorizations in this ordinance, 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~~))his or her 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,~~))limiting the foregoing:

(a) 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~~



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~~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.~~))Securities Depository for the Bonds; and (iii) take such actions on behalf of the City as are necessary or appropriate for the City to designate, qualify or maintain the tax-exempt treatment with respect to any Series issued as Tax-Exempt Bonds, to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series issued as Tax-Credit Subsidy Bonds and to otherwise receive any other federal tax benefits relating to the Bonds that available to the City; and

(b) Each of the Mayor and the Director of Finance is separately authorized to execute and deliver (i) any and all contracts or other documents as are consistent with this ordinance and for which the City's approval is necessary or to which the City is a party (including but not limited to agreements with escrow agents, refunding trustees, providers of Bond Insurance or Reserve Securities, remarketing agents, underwriters, lenders, fiscal agents, Qualified Counterparties, custodians, and the Bond Registrar); and (ii) such other contracts or documents incidental to the issuance and sale of a Series; the establishment of the initial interest rate or rates on a Bond; or the tender, purchase, remarketing, or redemption of a Bond, as may in his or her judgment be necessary or appropriate.

**Section 34.** **Amendment to Section 33 of the Ordinance.** Section 33 of Ordinance 121939 is renumbered as Section 28 and is amended and restated as follows:



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**Section ((~~33~~))28.** **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 35.** **Amendment to Section 34 of the Ordinance.** Section 34 of Ordinance 121939 is renumbered as Section 29 and is amended and restated as follows:

**Section ((~~34~~))29.** **Ratification of Prior Acts.** Any action taken consistent with the authority of this ordinance, after its passage 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 36.** **Amendment to Section 35 of the Ordinance.** Section 35 of Ordinance 121939 is renumbered as Section 30 and is amended and restated as follows:



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**Section ((~~35~~))30.** **Section Headings.** ((~~The~~ ))Section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

**Section 37.** **Amendment to Section 36 of the Ordinance.** Section 36 of Ordinance 121939 is renumbered as Section 31 and is amended and restated as follows:

**Section ((~~36~~))31.** **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.

**Section 38.** **Exhibits.** Exhibit A to the Ordinance is replaced in its entirety, as set forth in Exhibit A to this amendatory ordinance. A new Exhibit B is added to the Ordinance, as set forth in Exhibit B to this amendatory ordinance.

**Section 39.** **Restatement of Ordinance.** Attached as Exhibit C is a restated Ordinance that incorporates all of the amendments set forth in this amendatory ordinance. The restated Ordinance attached as Exhibit C, and the section numberings used therein, may be cited and used for all purposes as the definitive version of Ordinance 121939, as amended by Ordinance 122837 and this ordinance.

**Section 40.** **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, funds 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



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respects, and the offending provision with respect to all other person and all other circumstances, shall remain valid and enforceable.

**Section 41.** **Ratification of Prior Acts.** Any action taken consistent with the authority of this ordinance, after its passage but prior to the effective date, is ratified, approved and confirmed.

**Section 42.** **Section Headings.** The section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

**Section 43.** **Effective Date.** This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the 25th day of November, 2013, and signed by me in open session in authentication of its passage this 25th day of November, 2013.

President _____ of the City Council

Approved by me this 3rd day of December, 2013.

Michael McGinn, Mayor

Filed by me this 4th day of December, 2013.

Monica Martinez Simmons, City Clerk

(Seal)

Exhibit A – List of Outstanding Parity Bonds
Exhibit B – Form of Undertaking to Provide Continuing Disclosure
Exhibit C – Amended and Restated Ordinance 121939, as amended by Ordinance 122837 and this ordinance (without strikethroughs and insertions)



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# EXHIBIT A

## Outstanding Water Parity Bonds

| Issue Name | Dated Date | Original Par Amount | Parity Bond Authorizing Legislation |
|---|---|---|---|
| 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 |



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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 |



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# EXHIBIT B

## FORM OF UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

The City of Seattle, Washington (the "City") makes the following written Undertaking for the benefit of the owners of the City's Water Refunding Revenue Bonds, 2014 (the "Bonds"), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance _____ and Resolution _____ (together, the "Bond Legislation").

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

(i) Annual financial information and operating data regarding the Water System of the type included in the final official statement for the Bonds and described in subsection (b) of this section ("annual financial information");

(ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such "Bankruptcy Events" are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

(iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in subsection (b) of this section.



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(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in subsection (a) of this section:

(i) Shall consist of annual financial information and operating data regarding the Water System of the type included in the final official statement for the Bonds as follows: (1) annual financial statements of the Water System prepared in accordance with generally accepted accounting principles applicable to governmental units (except as otherwise noted therein), as such principles may be changed from time to time and as permitted by State law, which financial statements will not be audited, except, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (2) a statement of authorized, issued and outstanding bonded debt secured by revenues of the Water System; (3) debt service coverage ratios; (4) general customer statistics, such as number and type of customers and revenues by customer class; and (5) current water rates;

(ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 20__; and

(iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. The Undertaking evidenced by this section shall inure to the benefit of the City and any Beneficial Owner of Bonds, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance, prior redemption, or payment in full of all of the outstanding Bonds. In addition, the City's obligations under this Undertaking shall terminate if those provisions of Rule 15c2-12 which require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of nationally recognized bond counsel or other counsel familiar with federal securities laws delivered to the City, and the City provides timely notice of such termination to the MSRB.



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(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with the Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with the Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any Beneficial Owner of a Bond shall be to take such actions as that Beneficial Owner deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

(g) Designation of Official Responsible to Administer Undertaking. The Director of Finance of the City (or such other officer of the City who may in the future perform the duties of that office) or his or her designee is the person designated, in accordance with the Bond Legislation, to carry out the Undertaking of the City in respect of the Bonds set forth in this section and in accordance with Rule 15c2-12, including, without limitation, the following actions:

(i) Preparing and filing the annual financial information undertaken to be provided;

(ii) Determining whether any event specified in subsection (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;

(iii) Determining whether any person other than the City is an "obligated person" within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person in accordance with the Rule;

(iv) Selecting, engaging and compensating designated agents and consultants, including but not limited to financial advisors and legal counsel, to assist and advise the City in carrying out the Undertaking; and

(v) Effecting any necessary amendment of the Undertaking.



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# EXHIBIT B

## FORM OF UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE

The City of Seattle, Washington (the "City") makes the following written Undertaking for the benefit of the owners of the City's Water Refunding Revenue Bonds, 2014 (the "Bonds"), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance and Resolution (together, the "Bond Legislation").

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

(i) Annual financial information and operating data regarding the Water System of the type included in the final official statement for the Bonds and described in subsection (b) of this section ("annual financial information");

(ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such "Bankruptcy Events" are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

(iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in subsection (b) of this section.



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(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in subsection (a) of this section:

(i) Shall consist of annual financial information and operating data regarding the Water System of the type included in the final official statement for the Bonds as follows: (1) annual financial statements of the Water System prepared in accordance with generally accepted accounting principles applicable to governmental units (except as otherwise noted therein), as such principles may be changed from time to time and as permitted by State law, which financial statements will not be audited, except, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (2) a statement of authorized, issued and outstanding bonded debt secured by revenues of the Water System; (3) debt service coverage ratios; (4) general customer statistics, such as number and type of customers and revenues by customer class; and (5) current water rates;

(ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 20 ; and

(iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) Beneficiaries. The Undertaking evidenced by this section shall inure to the benefit of the City and any Beneficial Owner of Bonds, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance, prior redemption, or payment in full of all of the outstanding Bonds. In addition, the City's obligations under this Undertaking shall terminate if those provisions of Rule 15c2-12 which require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of nationally recognized bond counsel or other counsel familiar with federal securities laws delivered to the City, and the City provides timely notice of such termination to the MSRB.



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(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with the Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with the Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any Beneficial Owner of a Bond shall be to take such actions as that Beneficial Owner deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

(g) Designation of Official Responsible to Administer Undertaking. The Director of Finance of the City (or such other officer of the City who may in the future perform the duties of that office) or his or her designee is the person designated, in accordance with the Bond Legislation, to carry out the Undertaking of the City in respect of the Bonds set forth in this section and in accordance with Rule 15c2-12, including, without limitation, the following actions:

(i) Preparing and filing the annual financial information undertaken to be provided;

(ii) Determining whether any event specified in subsection (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;

(iii) Determining whether any person other than the City is an "obligated person" within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person in accordance with the Rule;

(iv) Selecting, engaging and compensating designated agents and consultants, including but not limited to financial advisors and legal counsel, to assist and advise the City in carrying out the Undertaking; and

(v) Effecting any necessary amendment of the Undertaking.



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Michael VanDyck/Marc Greenough
FAS, Water Omnibus Refunding ORD
October 10, 2013
Version #2

# EXHIBIT C

## AMENDED AND RESTATED ORDINANCE 121939 (as amended by Ordinances 122837 and _____)

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 costs of issuance of 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.

**BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

**Section 1.** **Definitions.** As used in this ordinance the following capitalized terms shall have the following meanings:

**"Accreted Value"** means with respect to any Capital Appreciation Bond (a) as of any Valuation Date, the amount set forth for such date in any Parity Bond Legislation authorizing such Capital Appreciation Bond, and (b) as of any date other than a Valuation Date, the sum of (i) the Accreted Value on the preceding Valuation Date and (ii) the product of (A) a fraction, the numerator of which is the number of days having elapsed from the preceding Valuation Date and the denominator of which is the number of days from such preceding Valuation Date to the next succeeding Valuation Date, calculated based on the assumption that Accreted Value accrues during any semiannual period in equal daily amounts on the basis of a year of twelve 30-day months, multiplied by (B) the difference between the Accreted Values for such Valuation Dates.

**"Acquired Obligations"** means those Government Obligations purchased to accomplish the Refunding Plan, consistent with the Refunded



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Bond Legislation and any applicable agreements with a provider of Bond Insurance or a Reserve Security.

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

**"Adjusted Gross Revenue"** means, for any period, Gross Revenue plus withdrawals from the Rate Stabilization Account made during that period, and minus (a) ULID Assessments, (b) earnings from investments in the Reserve Subaccount and (c) deposits into the Rate Stabilization Account made during that period.

**"Adjusted Net Revenue"** means Adjusted Gross Revenue less Operating and Maintenance Expense.

**"Annual Debt Service"** for any calendar year means the sum of the amounts required in such calendar year to pay the interest due in such calendar year on all Parity Bonds outstanding, excluding interest to be paid from the proceeds of the sale of Parity Bonds or other bonds; the principal of all outstanding Serial Bonds due in such calendar year; and the Sinking Fund Requirement, if any, for such calendar year.

(a) For purposes of this definition, the principal and interest portions of the Accreted Value of Capital Appreciation Bonds becoming due at maturity or by virtue of a Sinking Fund Requirement shall be included in the calculations of accrued and unpaid and accruing interest or principal in such manner and



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during such period of time as is specified in any Parity Bond Legislation authorizing such Capital Appreciation Bonds.

(b) For purposes of calculating and determining compliance with the Coverage Requirement, the Reserve Requirement and the conditions for the issuance of Future Parity Bonds and/or entering into Parity Payment Agreements, the following shall apply:

**(i)** **Generally.** Except as otherwise provided by subparagraph (ii) below with respect to Variable Interest Rate Bonds and by subparagraph (iii) below 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 applicable Parity Bond Legislation.

**(ii)** **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 that is 90% of the average RBI during the four calendar quarters preceding the quarter in which the calculation is made.

**(iii)** **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 produced by the following: (A) 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 (B) 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



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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 that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the fixed rate used in calculating Payment Agreement Payments will be equal to 105% of the fixed rate specified by the Payment Agreement and that the pricing mechanism or index specified by the Payment Agreement is the same as the pricing mechanism or index specified by the Parity Bonds. Notwithstanding the other provisions of this subparagraph, 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.

**(iv)** **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 subsection (iii) 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, payments on that Parity Payment Agreement shall be taken into account by assuming:

**(A)** **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



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during the four calendar quarters preceding the quarter in which the calculation is made, and

(B) **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 four calendar quarters 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.

(v) **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.

**"Authorized Denomination"** means $5,000 or any integral multiple thereof within a maturity of a Series.

**"Average Annual Debt Service"** means, at the time of calculation, the sum of the Annual Debt Service remaining to be paid to the last scheduled maturity of the applicable series of Parity Bonds divided by the number of years such bonds are scheduled to remain outstanding.

**"Balloon Bonds"** means any series of Parity Bonds designated as Balloon Bonds in the applicable Parity Bond Legislation.

**"Beneficial Owner"** means, with regard to a Bond, the owner of any beneficial interest in that Bond.

**"Bond Counsel"** means a lawyer or a firm of lawyers, selected by the City, of nationally recognized standing in matters pertaining to bonds issued by states and their political subdivisions.



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**"Bond Insurance"** means any bond insurance, 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 Purchase Contract"** means a written offer to purchase a Series, which offer has been accepted by the City in accordance with this ordinance. In the case of a competitive sale, the official notice of sale, the Purchaser's bid and the award by the City shall comprise the offer and the award by the City in accordance with this ordinance shall be deemed the acceptance of that offer for purposes of this ordinance.

**"Bond Register"** means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of each Bond.

**"Bond Registrar"** means the Fiscal Agent (unless the Bond Resolution provides for a different Bond Registrar with respect to a particular Series), or any successor bond registrar selected in accordance with the Registration Ordinance.

**"Bond Resolution"** means a resolution of the City Council adopted pursuant to this ordinance approving the Bond Sale Terms and taking other actions consistent with this ordinance.

**"Bond Sale Terms"** means the terms and conditions for the sale of a Series including the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants set forth in Section 4.

**"Bonds"** means the Water System refunding revenue bonds issued pursuant to this ordinance.



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**"Capital Appreciation Bond"** means any Parity Bond, 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 Legislation and is payable only upon redemption or on the maturity date of such Parity Bond. A Parity Bond issued as a Capital Appreciation Bond, but which later converts to an obligation on which interest is paid periodically, shall be a Capital Appreciation Bond until the conversion date and thereafter shall no longer be a Capital Appreciation Bond, but shall be treated as having a principal amount equal to its Accreted Value on the conversion date.

**"City"** means The City of Seattle, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

**"City Council"** means the City Council of the City, as duly and regularly constituted from time to time.

**"Code"** means the Internal Revenue Code of 1986, or any successor thereto, as it has been and may be amended from time to time, and regulations thereunder.

**"Contract Resource Obligation"** means an obligation of the City, designated as a Contract Resource Obligation and entered into in accordance with Section 21.

**"Coverage Requirement"** means Adjusted Net Revenue equal to at least 1.25 times Adjusted Annual Debt Service.

**"DTC"** means The Depository Trust Company, New York, New York.

**"Director of Finance"** means the Director of the Finance Division of the Department of Finance and Administrative Services of the City, or any other officer who succeeds to substantially all of the responsibilities of that office



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**"Event of Default"** shall have the meaning assigned to that term in Section 26.

**"Fiscal Agent"** means the fiscal agent of the State, as the same may be designated by the State from time to time.

**"Future Parity Bonds"** means, with reference to any Series of the Bonds, all revenue bonds and obligations of the Water System (other than that Series and any other Parity Bonds then outstanding) issued or entered into after the Issue Date of such Series, the payment of which constitutes a charge and lien on the Net Revenue equal in rank with the charge and lien upon such revenue required to be paid into the Parity Bond Account under Section 16. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section 18.

**"Future Parity Bond Legislation"** means any ordinance or resolution passed or adopted by the City Council providing for the issuance and sale of a series of Future Parity Bonds, and any other ordinance or resolution amending or supplementing the provisions of any such ordinance or resolution.

**"Government Obligations"** has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

**"Gross Revenue"** means (a) all income, revenues, receipts and profits derived by the City through the ownership and operation of the Municipal Water System; (b) the proceeds received by the City directly or indirectly from the sale, lease or other disposition of any of the properties, rights or facilities of the Municipal Water System; (c) Payment Agreement Receipts, to the extent that such receipts are not offset by Payment Agreement Payments; and (d) the



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investment income earned on money held in any fund or account of the City, including any bond redemption funds and the accounts therein, in connection with the ownership and operation of the Municipal Water System. Gross Revenue does not include: (a) insurance proceeds compensating the City for the loss of a capital asset; (b) income derived from investments irrevocably pledged to the payment of any defeased bonds payable from Gross Revenue; (c) investment income set aside for or earned on money in any fund or account created or maintained solely for the purpose of complying with the arbitrage rebate provisions of the Code; (d) any gifts, grants, donations or other funds received by the City from any State or federal agency or other person if such gifts, grants, donations or other funds are the subject of any limitation or reservation imposed by the donor or grantor or imposed by law or administrative regulation to which the donor or grantor is subject, limiting the application of such funds in a manner inconsistent with the application of Gross Revenue hereunder; (e) the proceeds of any borrowing for capital improvements (or the refinancing thereof); (f) the proceeds of any liability or other insurance (excluding business interruption insurance or other insurance of like nature insuring against the loss of revenues); (g) general *ad valorem* taxes, excise taxes and special assessments, including interest and penalties thereon; and (h) earnings of any separate utility system that may be created, acquired, or constructed by the City pursuant to Section 20.

**"Independent Utility Consultant"** means an independent person or firm having a favorable reputation for skill and experience with municipal water systems of comparable size and character to the Municipal Water System in such areas as are relevant to the purpose for which they were retained.



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**"Issue Date"** means, with respect to a Bond, the date, as determined by the Director of Finance, on which that Bond is issued and delivered to the Purchaser in exchange for its purchase price.

**"Letter of Representations"** means the Blanket Issuer Letter of Representations between the City and DTC dated October 4, 2006, as it may be amended from time to time, or an agreement with a substitute successor Securities Depository.

**"Maximum Annual Debt Service"** means, at the time of calculation, the maximum amount of Annual Debt Service which shall become due in the current calendar year or in any future calendar year on the Parity Bonds then outstanding.

**"MSRB"** means the Municipal Securities Rulemaking Board.

**"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 hereafter combined with the Municipal Water System. The Municipal Water System shall not include any separate utility system that may be created, acquired or constructed by the City as provided in Section 20.

**"Net Revenue"** means, for any period, the Gross Revenue less Operating and Maintenance Expense.

**"Operating and Maintenance Expense"** 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;



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State-imposed taxes; amounts due under Contract Resource Obligations (but only at the times described in Section 21); 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 operating and maintenance expenses under generally accepted accounting principles applicable to municipal corporations. Operating and Maintenance Expense 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, with reference to a Series of the Bonds, the then outstanding Parity Bonds described in Exhibit A, and any other Parity Bonds outstanding as of the Issue Date of that Series.

**"Owner"** means, without distinction, the Registered Owner and the Beneficial Owner of a Bond.

**"Parity Bond Account"** means the Water Revenue Parity Bond Account created by Ordinance 116705 in the Water Fund for the purpose of paying and securing the principal of and interest on Parity Bonds.

**"Parity Bond Legislation"** means any ordinance or resolution passed or adopted by the City Council providing for the issuance and sale of a series of Parity Bonds, and any other ordinance or resolution amending or supplementing the provisions of any Parity Bond Legislation.

**"Parity Bonds"** means the Outstanding Parity Bonds, the Bonds, and any outstanding Future Parity Bonds or Parity Payment Agreements.



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**"Parity Conditions"** means the conditions for issuing Future Parity Bonds under the Parity Bond Legislation.

**"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 equal in rank with the charge and lien upon such revenue required to be paid into the Parity 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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**"Permitted Investments"** means any investments or investment agreements permitted for the investment of City funds under the laws of the State of Washington, as amended from time to time.

**"Principal and Interest Subaccount"** means the subaccount of that name created in the Parity Bond Account for the payment of the principal of and interest and on Parity Bonds.

**"Purchaser"** means the entity or entities who have been selected in accordance with this ordinance to serve as underwriter, purchaser or successful bidder in a sale of any Series.

**"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, (a)(i) 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 (ii) 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 Rating Agency; and (b) who is otherwise qualified to act as the other party to a Payment Agreement under any applicable laws of the State.

**"Qualified Insurance"** means Bond Insurance provided by an insurance company that, as of the time of issuance of such Bond Insurance, is rated in one of the two highest rating categories (without regard to any gradations within a rating category) by at least two nationally recognized rating agencies.

**"Qualified Letter of Credit"** means any letter of credit issued by a financial institution for the account of the City on behalf of the Beneficial



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Owner of any Parity Bond, which institution maintains an office, agency or branch in the United States and, as of the time of issuance of such letter of credit, is rated in one of the two highest rating categories by at least two nationally recognized rating agencies.

**"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.

**"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 Agency"** means any nationally recognized rating agency then maintaining a rating on a series of Parity Bonds at the request of the City.

**"Record Date"** means, unless otherwise defined in the Bond Resolution, in the case of each interest or principal payment or redemption date, the Bond Registrar's close of business on the 15th day of the month preceding the interest or principal payment date. With regard to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar's close of business on the day prior to the date on which the Bond Registrar sends the notice of redemption.

**"Refundable Bonds"** means, collectively all Parity Bonds that the City may from time to time designate as Refundable Bonds.



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**"Refunded Bond Legislation"** means the respective ordinance and resolution, including all amendatory or supplemental ordinances and resolutions, pursuant to which a series of Refunded Bonds was issued.

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

**"Refunding Plan"** means the plan approved in a Bond Resolution to issue a Series, and to apply the proceeds of the sale of such Series and any other available money included in the plan, to redeem, or to defease and redeem, those Refundable Bonds identified in the plan.

**"Refunding Trust Agreement"** means, with respect to each Series, a refunding trust or escrow agreement, dated as of the Issue Date of such Series, between the City and a Refunding Trustee and providing for the irrevocable deposit of Bond proceeds and other available money of the City, to be used to carry out a Refunding Plan.

**"Refunding Trustee"** means, for each Series, the Director of Finance, or a financial institution selected by the Director of Finance to serve as refunding trustee or escrow agent under a Refunding Trust Agreement.

**"Registered Owner"** means, with regard to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the City uses a book-entry only system under the Letter of Representations, the Registered Owner shall mean the Securities Depository.

**"Registration Ordinance"** means City Ordinance 111724 establishing a system of registration for the City's bonds and other obligations pursuant to Seattle Municipal Code Chapter 5.10, as that chapter now exists or may hereafter be amended.



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**"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 Security"** means any Qualified Insurance or Qualified Letter of Credit obtained by the City to satisfy part or all of the Reserve Requirement, and which is not cancelable on less than three years' notice.

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

**"Rule 15c2-12"** means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

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

**"Securities Depository"** means DTC, any successor thereto, any substitute securities depository selected by the City, or the nominee of any of the foregoing. Any successor or substitute Securities Depository must be qualified under applicable laws and regulations to provide the services proposed to be provided by it.

**"Serial Bonds"** means Parity Bonds maturing in specified years, for which no Sinking Fund Requirements are mandated.

**"Series"** means a series of the Bonds issued pursuant to this ordinance.

**"Sinking Fund Requirement"** means, for any calendar year, the principal amount and premium, if any, of Term Bonds required to be purchased, redeemed, paid at maturity or paid into any Parity Bond Account for such



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calendar year as established by the Parity Bond Legislation authorizing the issuance of such Term Bonds.

**"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.

**"Tax Credit Subsidy Bond"** means any bond that is designated by the City as a tax credit bond pursuant to the Code, and which is further designated as a "qualified bond" under Section 6431 or similar provision of the Code, and with respect to which the City is eligible to claim a tax credit subsidy payment.

**"Tax Credit Subsidy Payment"** means a payment by the federal government with respect to a Tax Credit Subsidy Bond.

**"Tax-Exempt Bond"** means any Bond, the interest on which is intended on the Issue Date to be excluded from gross income for federal income tax purposes.

**"Term Bond"** means any Bond that is issued subject to mandatory redemption prior to its maturity in periodic mandatory redemption payments.

**"ULID"** means a utility local improvement district of the City created for the acquisition or construction of additions to and betterments and extensions of the Municipal Water System.

**"ULID Assessments"** means all assessments levied and collected in a ULID, if and only if those assessments are pledged to be paid into the Parity Bond Account. ULID Assessments shall include all installments of principal, payments of interest, and penalties and interest on delinquencies, but shall not include any prepaid assessments paid into a construction fund or account.



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**"Undertaking"** means the undertaking to provide continuing disclosure entered into pursuant to Section 24, in substantially the form attached as Exhibit B.

**"Valuation Date"** means, with respect to any Capital Appreciation Bond, the date or dates set forth in the relevant Parity Bond Legislation or Bond Purchase Contract on which specific Accreted Values are assigned to that Capital Appreciation Bond.

**"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 set in accordance with the applicable Parity Bond Legislation, which shall specify either (a) 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 (b) the time or times upon which any change in such variable interest rate shall become effective.

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



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

**Section 2.** **Authorization of Bonds.** The City is authorized to issue Municipal Water System revenue bonds, payable from the sources described in Section 14, in principal amounts not to exceed the limits stated in Section 4, to carry out one or more Refunding Plans, including paying the administrative costs of carrying out each such Refunding Plan, and to pay the costs of issuance of the Bonds. The Bonds may be issued in one or more Series and may be combined with other Parity Bonds authorized separately. The Bonds shall be designated Municipal Water System revenue bonds and shall be numbered separately and shall have any name, year and series or other label as deemed necessary or appropriate by the Director of Finance.

**Section 3.** **Manner of Sale of Bonds**. At least ten days before the date selected by the Director of Finance for the sale of a Series, 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 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 each Series by public sale, or by a negotiated sale, limited offering or private placement with a Purchaser 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 and a date and time for delivery of each Series; to give notice of that sale; to



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determine any bid parameters or other 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 in order to carry out the sale of each Series. Each Series must be sold on Bond Sale Terms in accordance with Section 4.

**Section 4.** **Bond Sale Terms; Bond Resolution.** The Director of Finance is appointed to serve as the City's designated representative in connection with the issuance and sale of the Bonds in accordance with RCW 39.46.040(2) and this ordinance. The Director of Finance is authorized to accept, on behalf of the City, an offer to purchase the Bonds on Bond Sale Terms consistent with the parameters set forth in this section. No such acceptance shall be effective until adoption of a Bond Resolution approving the Bond Sale Terms. Once adopted, the Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

**(a) Maximum Principal Amount.** The Bonds may be issued in one or more Series and may be combined with other Parity Bonds authorized separately. The aggregate principal amount of the Bonds allocated to each Refunding Plan shall not exceed 125% of the stated principal amount (or the Accreted Value, if applicable) of the Refunded Bonds included in that Refunding Plan.

**(b) Date or Dates.** Each Bond shall be dated its Issue Date, as determined by the Director of Finance, which shall be determined by the Director of Finance.

**(c) Denominations.** The Bonds shall be issued in Authorized Denominations.



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**(d) Interest Rate(s); Payment Dates.** Each Bond shall bear interest from the Issue Date or from the most recent date to which interest has been paid or duly provided for, whichever is later, and shall be payable on dates determined by the Director of Finance. One or more rates of interest shall be established for each maturity of each Series, which rate or rates may be fixed interest rates or Variable Interest Rates. Fixed interest rates shall be computed on the basis of a 360-day year of twelve 30-day months and the net interest cost shall not exceed a weighted average rate of 10% per annum. Principal payments shall commence on a date and shall be payable at maturity or have Sinking Fund Requirements on dates determined by the Director of Finance.

**(e) Final Maturity.** The Bonds shall mature no later than 40 years after the Issue Date.

**(f) Redemption Rights.** The Bond Sale Terms may include provisions for the optional and mandatory redemption of Bonds determined by the Director of Finance, subject to the following:

**(i) Optional Redemption.** Any Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the redemption prices set forth in the Bond Purchase Contract; or (B) not subject to redemption prior to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

**(ii) Mandatory Redemption.** Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in Sinking Fund Requirements consistent with Section 7(b).

**(g) Price.** The purchase price for each Series shall be acceptable to the Director of Finance.



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**(h) Other Terms and Conditions.**

(i) As of the Issue Date of each Series, (A) the Finance Director must determine that the Parity Conditions have been met or satisfied, so that such Series may be issued as Parity Bonds, and (B) the City Council must find the Bond Resolution that, in creating the Parity Bond Account and in fixing the amounts to be paid into it in accordance with this ordinance, the City Council has had due regard for the cost of maintenance and operation of the Municipal Water System, and is not setting aside into the Parity Bond Account a greater amount than in the judgment of the City Council, based on the rates to be established from time to time consistent with Section 17(b), will be available over and above such cost of maintenance and operation.

(ii) A Series may not be issued unless the Bond Resolution with respect to that Series sets forth a Refunding Plan and includes the findings that:

(A) The Refunding Plan (1) will pay or discharge the City's obligations with respect to Refundable Bonds that are in arrears or about to become due, and for which sufficient funds are not available; (2) is necessary or in the best interest of the City to modify debt service requirements, sources of payment covenants or other terms of the Refunded Bonds; or (3) will effect a savings to the City, giving consideration to the fixed maturities of the Series to be issued and of the Refunded Bonds, the costs of issuance of that Series and the known earned income from the investment of the sale proceeds and other money of the City used in the Refunding Plan; and

(B) the irrevocable deposit of money and securities with the Refunding Trustee in accordance with the Refunding Plan will discharge and satisfy the obligations of the City as to the Refunded Bonds, including all pledges, charges, trusts, covenants and agreements under the Refunded Bond Legislation, and immediately upon such deposit, the Refunded Bonds will no longer be deemed to be outstanding under the Refunded Bond Legislation.

(iii) The Bond Sale Terms for any Series may provide for Bond Insurance, a Reserve Security or other credit enhancement, or for



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a Parity Payment Agreement. To that end, the Bond Sale Terms may include such additional terms, conditions and covenants as may be necessary or desirable, including but not limited to: restrictions on investment of Bond proceeds and pledged funds, and requirements to give notice to or obtain the consent of a credit enhancement provider or a Qualified Counterparty.

(iv) The Bond Sale Terms must establish the method of providing for the Reserve Requirement, consistent with Section 16(a)(ii).

(v) Any Series may be designated or qualified as Tax-Exempt Bonds, Tax Credit Subsidy Bonds, or other taxable bonds, and may include such additional terms and covenants relating to federal tax matters as the Director of Finance deems necessary or appropriate, consistent with Section 23.

**Section 5. <u>Bond Registrar; Registration and Transfer of Bonds</u>.**

**(a) Registration of Bonds.** The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register.

**(b) Bond Registrar; Transfer and Exchange of Bonds.** The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. 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. 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 the Registration Ordinance.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's certificate of authentication on the Bonds. The Bond



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Registrar may become an 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 Owners. 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(( )) Owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the period between the Record Date and the corresponding interest payment or redemption date.

**(c) Securities Depository; Book-Entry Form.** The Bonds initially shall be registered in the name of the Securities Depository. The Bonds so registered shall be held fully immobilized in book-entry form by the Securities Depository in accordance with the provisions of the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to participants of the Securities Depository or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by the Securities Depository or its participants of any amount in respect of principal of or interest on the Bonds, or any notice which is permitted or required to be given to Owners hereunder (except such notice as is required to be given by the Bond Registrar to the Securities Depository). Registered ownership of a Bond initially held in book-entry form, or any portion thereof, may not be transferred except: (i) to any successor Securities



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Depository; (ii) to any substitute Securities Depository appointed by the City or such substitute Securities Depository's successor; or (iii) to any person if the Bond is no longer held in book-entry form.

Upon the resignation of the Securities Depository from its functions as depository, or upon a City determination to discontinue services of the Securities Depository, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns from its functions as depository, and no substitute Securities Depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, then ownership of Bonds may be transferred to any person as provided herein and the Bonds no longer shall be held in book-entry form.

**Section 6.** **Payment of Bonds.** Principal of and interest on each Bond shall be payable solely out of the Parity Bond Account, in lawful money of the United States. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the



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Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

**Section 7. <u>Redemption and Purchase of Bonds</u>.**

**(a) Optional Redemption.** All or some of the Bonds may be subject to redemption prior to their stated maturity dates at the option of the City at the times and on the terms approved in accordance with Section 4.

**(b) Mandatory Redemption.** If not redeemed or purchased at the City's option prior to maturity, Term Bonds (if any) shall be redeemed, at a price equal to the principal amount thereof to be redeemed plus accrued interest, on the dates and in the Sinking Fund Requirements as set forth in the Bond Resolution. If the City redeems or purchases Term Bonds at the City's option prior to maturity, the Term Bonds so redeemed or purchased (irrespective of their redemption or purchase prices) shall be credited at the par amount thereof against the remaining Sinking Fund Requirements as determined by the Director of Finance. In the absence of a determination by the Director of Finance or other direction in the Bond Resolution, credit shall be allocated on a pro rata basis.

**(c) Selection of Bonds for Redemption; Partial Redemption.** If fewer than all of the outstanding Bonds are to be redeemed at the option of the City, the Director of Finance shall select the Series and maturity or maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity of a Series are to be redeemed, the Securities Depository shall select Bonds registered in the name of the Securities Depository to be redeemed in accordance with the Letter of Representations, and the Bond Registrar shall select all other Bonds to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond



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that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond (or Bonds, at the option of the Registered Owner) of the same Series, maturity and interest rate in any Authorized Denomination in the aggregate principal amount to remain outstanding.

**(d) Purchase.** The City reserves the right and option to purchase any or all of the Bonds offered to the City at any time at any price acceptable to the City plus accrued interest to the date of purchase.

**Section 8. <u>Notice of Redemption</u>.** The City shall cause notice of any intended redemption of Bonds to be given not less than 20 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 on the Record Date, 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 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 the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is rescinded by the Director of Finance shall be of no



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effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

**Section 9.** **Failure to Pay Bonds.** If any Bond is not paid when properly presented at its maturity or redemption date, the City shall be obligated to pay, solely from the Parity Bond Account and the other sources pledged in this ordinance, interest on that Bond at the same rate provided in that Bond from and after its maturity or redemption date until that Bond, principal, premium, if any and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Parity Bond Account and that Bond has been called for payment by giving notice of that call to the Registered Owner of that Bond.

**Section 10.** **Form and Execution of Bonds.** The Bonds shall be typed, printed or reproduced in a form consistent with the provisions of this ordinance, the Bond Resolution and State law, shall be signed by the Mayor 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 adjusted 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: "This Bond is one of the fully registered The City of Seattle, Washington, [Water System Revenue Refunding Bonds], [Year], [Series], described in [this ordinance]." 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.



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If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated or delivered by the Bond Registrar or issued by the City, that Bond 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 11.** **Deposit and Use of Proceeds.** Unless provided otherwise in the Bond Resolution, the principal proceeds and premium, if any received from the sale of each Series, in the amount necessary to carry out the Refunding Plan (including payment of costs of issuance and administrative costs of carrying out the refunding) approved in connection with such Series, shall be deposited with the Refunding Trustee and used in accordance with the provisions of Section 12 to discharge the obligations of the City relating to the Refunded Bonds.

To the extent not necessary to carry out the Refunding Plan, excess proceeds received from the sale of a Series (including interest earnings thereon) shall be deposited into such funds, subfunds, accounts and subaccounts as the Director of Finance shall determine, consistent with the Bond Resolution. The Director of Finance may apply any amounts remaining after the costs of issuance and the administrative costs of the Refunding Plan have been paid (or after the City Council has determined that the expenditure of such amounts for



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those purposes is no longer necessary or appropriate) to pay principal of and interest on that Series or for any other purposes approved by ordinance or by the Bond Resolution.

**Section 12. <u>The Refunding Plan</u>.**

**(a) Approval of Refunding Plan; Appointment of Refunding Trustee.** The Bond Resolution shall approve a Refunding Plan for each Series, which shall provide for the issuance of the Series, shall identify the Refundable Bonds to be refunded, shall allocate the Bonds among the various Refunded Bonds, shall describe the method for carrying out the refunding of the Refunded Bonds, and shall appoint the Refunding Trustee. The Refunding Plan shall be carried out, and proceeds of the Series shall be applied, in accordance with this ordinance, the respective Refunded Bond Legislation, the Bond Resolution and the laws of the State.

**(b) Acquisition of Acquired Obligations.** To the extent practicable, the Refunding Plan shall provide for the Refunding Trustee's 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 amounts 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, but are subject to substitution as set forth in subsection (c) below.

**(c) Substitution of Acquired Obligations.** The City reserves the right at any time to substitute cash or Government Obligations for the Acquired Obligations if the City obtains a verification by a nationally recognized independent certified public accounting firm reasonably acceptable to the



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Refunding Trustee confirming that the payments of principal of and interest on the substitute Government Obligations, if paid when due, together with the cash to be held by the Refunding Trustee, will be sufficient to carry out the Refunding Plan. If the applicable Series (or series of the Refunded Bonds) were issued as Tax-Exempt Bonds, then prior to such substitution, the City must also obtain an opinion from Bond Counsel to the effect that the disposition and substitution or purchase of such securities will not cause the interest on the applicable Series (or series of the Refunded Bonds) issued as Tax-Exempt Bonds to be included in gross income for federal income tax purposes and that such disposition and substitution or purchase is in compliance with the statutes and regulations applicable to the Series. 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 may be used for any lawful City purpose.

**(d) Refunding Trust Agreement.** In connection with each Series, the Director of Finance is authorized to execute a Refunding Trust Agreement with a Refunding Trustee, setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with carrying out the Refunding Plan. Each Refunding Trust Agreement shall, among other things, authorize and direct the Refunding Trustee to use the money deposited with it to purchase the Acquired Obligations (or substitute obligations) and to apply such money along with the maturing principal of and interest on such obligations to make the payments required to be made by the Refunding Plan. The money deposited with the Refunding Trustee, including the Acquired Obligations and any investment earnings, shall be held irrevocably, invested and applied in



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accordance with the provisions of the respective Refunded Bond Legislation, this ordinance, the Bond Resolution, chapter 39.53 RCW and other applicable State law. All administrative costs (including without limitation, 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 Plan) and costs of issuance may, in the discretion of the Director of Finance, be paid out of the amounts deposited with the Refunding Trustee or other available money of the City.

**Section 13.** **Call for Redemption of the Refunded Bonds.** The City may in the Bond Resolution call, or authorize the Director of Finance to call, the Refunded Bonds for redemption. Such call for redemption of the Refunded Bonds shall identify the Refunded Bonds, call dates and redemption prices (expressed as a percentage of the stated principal amount, plus accrued interest), and shall be irrevocable after the Issue Date of the applicable Series. The proper City officials 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 Refunded Bond Legislation, in order to carry out the Refunding Plan.

**Section 14.** **Security for the Bonds; Parity with other Bonds.** The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue and ULID Assessments, and by money in the Parity Bond Account and the subaccounts therein. The Net Revenue and all ULID Assessments, and all money and investments held in the Parity Bond Account, the Rate Stabilization Account and the Construction Account (except money and investments held in a separate fund or account created for the purpose of compliance with rebate requirements under the Code), are pledged to the



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payment of the Parity Bonds and to make payments into the Reserve Subaccount required by this ordinance and the Parity Bond Legislation. This pledge shall constitute a charge and lien upon the Net Revenue prior and superior to any other charges whatsoever.

The Bonds shall be on a parity with the Outstanding Parity Bonds and all Future Parity Bonds, without regard to date of issuance or authorization and without preference or priority of right or lien. Nothing in this ordinance prevents the City from issuing revenue bonds or other obligations which are a charge or lien upon the Net Revenues subordinate to the payments required to be made from Net Revenue into the Parity Bond Account and the subaccounts therein.

The Bonds shall not constitute general obligations of the City, the State or any political subdivision of the State or a charge upon any general fund or upon any money or other property of the City, the State or any political subdivision of the State not specifically pledged by this ordinance.

**Section 15.** **Priority Expenditure of Gross Revenue; Flow of Funds.** The Gross Revenue shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To pay the Operating and Maintenance Expense;

(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 to meet Sinking Fund Requirements, and to make payments due under any agreement with a provider of a Reserve Security 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, to make all payments required to be made under any agreement with a provider of a Reserve Security, which agreement requires those payments to be treated on a parity of lien with the payments required to be made into the Reserve Subaccount, and to make the deposits required to be made into a special account in the Water Fund upon the expiration of a Reserve Security, in accordance with Section 16(a)(ii);

(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 subordinate 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 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 pay City taxes or other payments in lieu of taxes payable from Gross Revenue; to make deposits into the Rate Stabilization Account; or for any other lawful Municipal Water System purposes.

**Section 16.** **Parity Bond Account.** The Parity Bond Account is divided into two subaccounts: the Principal and Interest Subaccount and the Reserve Subaccount. The Director of Finance may create sinking fund subaccounts or other subaccounts in the Parity Bond Account for the payment or



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securing the payment of Parity Bonds, as long as the maintenance of such accounts does not conflict with the rights of the Owners of Parity Bonds.

**(a) Required Payments Into Parity Bond Account.** So long as any Parity Bonds are outstanding, the City shall set aside and pay into the Parity Bond Account all ULID Assessments on their collection and, out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(i) Into the Principal and Interest Subaccount (A) upon receipt thereof, the accrued interest, if any, received by the City from the Purchaser, and (B) on or before each interest or principal and interest payment date of any Parity Bonds an amount which, together with other money on deposit therein, will be sufficient to pay the interest, or principal and interest and Sinking Fund Requirements, to become due and payable on the Parity Bonds on that payment date, and net payments due on Parity Payment Agreements; and

(ii) Into the Reserve Subaccount an amount necessary to provide for the Reserve Requirement for the Parity Bonds within the time and in the manner required by this ordinance and the Parity Bond Legislation. The amount necessary to satisfy the Reserve Requirement upon the issuance of a Series may be funded (i) on the Issue Date, by a deposit from the bond sale proceeds or a Reserve Security, or (ii) in annual installments from Net Revenue so that the Reserve Requirement is fully funded by the fifth anniversary of the Issue Date. The manner of funding the Reserve Requirement for the Bonds shall be set forth in the Bond Resolution. 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.

The City may provide all or any part of the Reserve Requirement through a Reserve Security, subject to the following: (A) the amount available to be drawn upon under a Reserve Security shall be credited against the Reserve Requirement; and (B) on receipt of a notice of cancellation of any Reserve Security, the City shall either (1) substitute a Reserve Security in the amount required to make up the deficiency created in the Reserve



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> Subaccount, or (2) 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 becomes effective. 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 Security 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 a substitute Reserve Security is obtained.

The Director of Finance may transfer any money from any funds or accounts of the City legally available therefor, except bond redemption funds, refunding escrow funds or defeasance funds, to meet the required payments to be made into the Parity Bond Account. The Director of Finance may provide for the purchase, redemption or defeasance of any Parity Bonds by the use of money on deposit in any subaccount in the Parity 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.

**(b) Reserve Subaccount.** The City covenants that it will at all times so long as any Parity Bonds are outstanding, maintain the Reserve Subaccount at the Reserve Requirement (taking into account scheduled payments to fund the Reserve Requirement over time), as it is adjusted from time to time, except for withdrawals as authorized by this ordinance. The Director of Finance may make withdrawals of cash from the Reserve Subaccount in the event of a deficiency in the Principal and Interest Subaccount to meet maturing installments of either principal (or Sinking Fund Requirements) or interest. Any deficiency created in



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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 Parity Bonds, and when the total amount in the Parity Bond Account (including investment earnings) equals the total amount of principal and interest for all then-outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Parity Bond Account. 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.

**(c) Investment of Money in Parity Bond Account.** All money in the Parity Bond Account may be kept in cash or invested in Permitted Investments maturing not later than the date when needed (for investments in the Principal and Interest Subaccount) or the last maturity of any outstanding Parity Bonds (for investments in the Reserve Subaccount). In no event shall any money in the Parity Bond Account or any other money reasonably expected to be used to pay principal and/or interest on the Parity Bonds be invested at a yield which would cause any Series issued as Tax-Exempt Bonds or Tax Credit Subsidy Bonds to be arbitrage bonds within the meaning of Section 148 of the Code. Income from investments in the Principal and Interest Subaccount shall be deposited in that subaccount.



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Income from investments in the Reserve Subaccount shall be deposited in that subaccount until the amount therein is equal to the Reserve Requirement for all Parity Bonds, and thereafter shall be deposited in the Principal and Interest Subaccount. Notwithstanding the provisions for deposit or retention of earnings in the Parity Bond Account, any earnings which are subject to a federal tax or rebate requirement may be withdrawn from the Parity Bond Account for deposit in a separate fund or account for that purpose. If no longer required for such rebate, money in that separate fund or account shall be returned to the Parity Bond Account.

**(d) Failure to Deposit Money in Parity Bond Account.** If the City fails to set aside and pay into the Parity Bond Account, or the subaccounts therein, the amounts set forth above, the registered owner of any of the outstanding Parity Bonds may bring action against the City for failure to make the required deposits to the Parity Bond Account only in accordance with Section 26 regarding Events of Default.

**Section 17. <u>Parity Bond Covenants</u>.** The City covenants with the owner of each Bond at any time outstanding, as follows:

**(a) Operation and Maintenance.** It will pay all Operating and Maintenance Expense and otherwise meet the obligations of the City under this ordinance. It will at all times maintain, preserve and keep 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



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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, revise as necessary, 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:

(i) The Gross Revenue will be sufficient to (A) pay all Operating and Maintenance Expense, (B) pay when due all amounts that the City is obligated to pay into the Parity Bond Account and the subaccounts therein, and (C) 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

(ii) The Adjusted Net Revenue in each fiscal year will be at least equal to the Coverage Requirement; and

(iii) 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 (i) and (ii) above shall not be an Event of Default if the City promptly retains an Independent Utility Consultant 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.



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**(c) Sale 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:

(i) The City in its discretion may carry out such a sale, transfer or disposition (each, as used in this section, a "transfer") if the facilities or property transferred are not material to the operation of the Municipal Water System, 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

(ii) 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 subsection in any fiscal year comprises no more than 3% of the total assets of the Municipal Water System; or

(iii) 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 subsection, the City must obtain a certificate of an Independent Utility Consultant 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



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the fiscal year in which the transfer is to occur, taking into account, (A) the reduction in revenue resulting from the transfer; (B) the use of any proceeds of the transfer for the redemption of Parity Bonds, (C) the Independent Utility Consultant'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 (D) any other adjustment permitted in the preparation of a certificate under Section 18(a)(vi)(B). Before such a transfer, the City also must obtain confirmation from each Rating Agency 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 outstanding 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:*

*(i) 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*

*(ii) 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 subsection in any fiscal year comprises no more than 5% of the total assets of the Municipal Water System; or*

*(iii) The City in its discretion may carry out such a transfer if the proceeds from such transfer are used to acquire new useful*



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*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 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 18(a)(vi)(B). 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.



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**(e) Books and Records.** 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 Parity 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 Bond upon written request received by 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



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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. <u>Future Parity Bonds</u>.**

(a) 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:

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

(ii) The Future Parity Bond Legislation must provide that all ULID Assessments shall be paid directly into the Parity Bond Account.



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(iii) The Future Parity Bond Legislation must provide for the payment of the principal thereof and interest thereon out of the Parity Bond Account.

(iv) The Future Parity Bond Legislation must provide for the payment of any Sinking Fund Requirements from money in the Principal and Interest Subaccount.

(v) The Future Parity Bond Legislation must provide for the deposit into the Reserve Subaccount of (A) 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; (B) one or more Reserve Securities or an amount plus Reserve Securities necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds, or (C) amounts necessary to fund the Reserve Requirement from ULID Assessments and Net Revenue within five years from the date of issuance of those Future Parity Bonds, in five approximately equal annual payments.

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

(A) A certificate of the Director of Finance demonstrating that during any 12 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 12 month period was the Average Annual Debt Service for those proposed bonds); or

(B) A certificate of the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of that office), that in their opinion, Adjusted Net Revenue for the five fiscal years next following the earlier of (1) 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 (2) 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 (1) through (4) below,



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will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments:

(1) 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;

(2) 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;

(3) 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

(4) 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.



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(b) 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 subordinate lien bonds as long as such ULID assessments are levied for improvements constructed from the proceeds of those subordinate lien bonds.

**Section 19.** **Rate Stabilization Account.** The Rate Stabilization Account has been created as a separate account in the Water Fund. The City may at any time, as determined by the Director of Finance, deposit in the Rate Stabilization Account, Gross Revenue and any other money received by the Municipal Water System and available for this purpose, consistent with Section 15. The Director of Finance may, upon authorization by resolution of the City Council, withdraw any or all of the money from the Rate Stabilization Account for inclusion in the Adjusted Gross Revenue for any fiscal year. 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 may 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 20.** **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 relating to the Municipal



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Water System. 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 shall be pledged by the City to the payment of any obligations of a separate utility system except (a) as a Contract Resource Obligation, or (b) with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.

**Section 21.** **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, as follows:

(a) 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 an Operating and Maintenance Expense if the following requirements are met at the time such a Contract Resource Obligation is entered into:

(i) No Event of Default has occurred and is continuing; and

(ii) There shall be on file a certificate of an Independent Utility Consultant stating that (A) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the supply or transmission rendered; (B) 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



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utility practice, and are likely to provide supply or transmission no later than a date set forth in the Independent Utility Consultant's certification; and (C) the Adjusted Net Revenue (further adjusted by the Independent Utility Consultant'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 Utility Consultant in accordance with the provisions of and adjustments permitted in Section 18(a)(vi)(B), will be at least equal to the Coverage Requirement.

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

(c) 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 Operating and Maintenance Expense. 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 charge and lien on Net Revenue subordinate to that of Parity Bonds.

**Section 22.** **Refunding or Defeasance of Bonds.** The Bonds are hereby designated "Refundable Bonds" for purposes of this ordinance, as it may be amended from time to time. The City may issue refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay when due the principal of, premium, if any, and interest on any Bond, or portion thereof, included in a refunding or defeasance plan, and to redeem and retire, release, refund or defease those Bonds (the "defeased Bonds") and to pay the costs of such refunding or defeasance. If money and/or Government Obligations



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maturing at a time or times and in an amount sufficient, together with known earned income from the investment thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside in a special trust fund or escrow account irrevocably pledged 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 establishing and fully funding such a trust account, the defeased Bonds shall be deemed as no longer outstanding, and the Director of Finance 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. Notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner set forth in this ordinance for the redemption of Bonds.

If the refunding or defeasance plan provides that the defeased Bonds or the refunding bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding or defeasance 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 or defeasance plan, then only the debt service on the Bonds which are not defeased Bonds and the refunding bonds, the



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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 23. Provisions Relating To Certain Federal Tax Consequences of the Bonds.**

**(a) Tax-Exempt Bonds.** The City covenants that it will take all actions consistent with the terms of any Series issued as Tax-Exempt Bonds, this ordinance and the Bond Resolution, reasonably within its power and necessary to prevent interest on that Series from being included in gross income for federal income tax purposes, and the City will neither take any action nor make or permit any use of proceeds of such Series or other funds of the City treated as proceeds of the Series at any time during the term of the Series which will cause interest on the Series to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to any Series issued as Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with that Series, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on such Series from being included in gross income for federal income tax purposes.

**(b) Tax-Credit Subsidy Bonds or other Taxable Bonds.** The Director of Finance may, without further action by the Council, make provision in the Bonds or other written document for such additional covenants of the City



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as may be necessary or appropriate in order for the City to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series issued as Tax Credit Subsidy Bonds or otherwise become and remain eligible for tax benefits under the Code.

**Section 24. <u>Official Statement; Continuing Disclosure</u>.**

**(a) Preliminary Official Statement.** The Director of Finance and other appropriate City officials are directed to cause the preparation of and review the form of a preliminary official statement in connection with each sale of one or more Series to the public. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Director of Finance is authorized to deem that preliminary official statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary official statement that has been deemed final in accordance with this substitution.

**(b) Final Official Statement.** The City approves the preparation of a final official statement for each sale of one or more Series to be sold to the public in the form of the preliminary official statement with such modifications and amendments as the Director of Finance deems necessary or desirable, and further authorizes the Director of Finance to execute and deliver such final official statement to the Purchaser. The City authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of the Bonds.

**(c) Undertaking to Provide Continuing Disclosure.** To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a



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participating underwriter for a Series, the Director of Finance is authorized to execute the written Undertaking in substantially the form attached as Exhibit B.

**Section 25. <u>Supplemental or Amendatory Ordinances</u>.**

(a) This ordinance shall not be supplemented or amended in any respect subsequent to the Issue Date, except as provided in and in accordance with and subject to the provisions of this section.

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

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

(ii) To impose upon the Bond Registrar (with its consent) for the benefit of the owners of any Parity 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;

(iii) 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;

(iv) 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;

(v) 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;



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(vi) To comply with any future federal law or interpretation to preserve the exclusion of the interest on the Tax-Exempt Bonds from gross income for federal income tax purposes and the entitlement of the City to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series sold and issued as Tax Credit Subsidy Bonds;

(vii) 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; and

(viii) 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 provider of Bond Insurance or provider of a Reserve Security and which are not materially adverse to the owners of the Parity Bonds.

Before the City may pass any such supplemental or amendatory ordinance pursuant to this subsection, there must be delivered to the City an opinion of Bond Counsel, stating that such supplemental or amendatory ordinance is authorized or permitted by this ordinance and, upon the effective date thereof, will be valid and binding upon the City in accordance with its terms, will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds.

(c) Except for any supplemental or amendatory ordinance passed pursuant to subsection (b) of this section, subject to the terms and provisions contained in this subsection (c) and not otherwise:

(i) With the consent of registered owners of not less than 60% in aggregate principal amount of the Parity Bonds then outstanding, the City Council may pass any supplemental or amendatory 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. However, unless approved in writing by the registered owner of each Parity Bond then outstanding,



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nothing contained in this section shall permit, or be construed as permitting (A) 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 method of determining the rate of interest thereon, (B) a preference or priority of any Parity Bond over any other Parity Bond, or (C) a reduction in the aggregate principal amount of Parity Bonds.

(ii) If at any time the City Council passes a supplemental or amendatory ordinance for any of the purposes of this subsection (c), the Bond Registrar shall cause notice of the proposed supplemental or amendatory ordinance to be given by first-class United States mail to all registered owners of the then outstanding Parity Bonds, to each provider of Bond Insurance or a Reserve Security, and to each Rating Agency. Such notice shall briefly set forth the nature of the proposed supplemental or amendatory ordinance and shall state that a copy is on file at the office of the City Clerk for inspection by all owners of the outstanding Parity Bonds.

(iii) Within two years after the date of the mailing of such notice, such supplemental or amendatory ordinance, substantially as described in such notice, may go into effect, but only if there shall have first been delivered to the Bond Registrar (A) the required consents, in writing, of registered owners of the Parity Bonds, and (B) an opinion of Bond Counsel stating that such supplemental or amendatory ordinance is authorized or permitted by this ordinance and, upon the effective date thereof, will be valid and binding upon the City in accordance with its terms, will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds.

(iv) If registered owners of not less than the percentage of Parity Bonds required by this subsection (c) shall have consented to and approved the passage of such a supplemental or amendatory ordinance, no owner of a Parity Bond 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 from passing the same or the City, any authorized official thereof, or the Bond



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Registrar from taking any action pursuant to the provisions thereof.

(d) The Registered Owners from time to time of the outstanding Bonds, by taking and holding the same, shall be deemed to have consented to the adoption by the City of any supplemental or amendatory ordinance or resolution passed pursuant to the provisions of this section for any one or more of the following purposes:

(i) When calculating "Annual Debt Service," to permit or require Tax Credit Subsidy Payments expected to be received by the City in any period to be credited against amounts required to be paid in respect of interest on the Parity Bonds in that period; and

(ii) To permit or require Tax Credit Subsidy Payments to be deposited into the Principal and Interest Subaccount and credited against the Net Revenue otherwise required to be deposited into the Principal and Interest Subaccount.

(e) Upon the effective date of any supplemental or amendatory 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 26. <u>Defaults and Remedies</u>.**

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

(i) 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



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(ii) 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 in any Parity Bond Legislation (except as otherwise provided herein or in such Parity Bond Legislation) 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; or

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

Notwithstanding anything in this section to the contrary, the failure of the City or any obligated person to comply with the Undertaking shall not constitute an Event of Default under this ordinance, the Bond Resolution or the Bonds, 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.

**(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 Parity 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



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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 the Bond Owners' Trustee 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



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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) 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) 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) 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



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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 Parity Bond until his or her 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



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answerable for any neglect or default of any person, firm or corporation employed and selected by it with reasonable care.

**(f) Suits by Individual Parity Bond Owners Restricted.** No owner of any one or more 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; and

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

(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; and

(iv) the registered owners of 25% in principal amount of the Parity Bonds, after the occurrence of such Event of Default, have 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; and

(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 or her 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.

**Section 27. General Authorization.** In addition to the specific authorizations in this ordinance, the Mayor and the Director of Finance and each of the other appropriate officers of the City are each authorized and directed to do everything as in his or her judgment may be necessary, appropriate, or



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desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance. In particular and without limiting the foregoing:

(a) 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) change the Bond Registrar or Securities Depository for the Bonds; and (iii) take such actions on behalf of the City as are necessary or appropriate for the City to designate, qualify or maintain the tax-exempt treatment with respect to any Series issued as Tax-Exempt Bonds, to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series issued as Tax-Credit Subsidy Bonds and to otherwise receive any other federal tax benefits relating to the Bonds that available to the City; and

(b) Each of the Mayor and the Director of Finance is separately authorized to execute and deliver (i) any and all contracts or other documents as are consistent with this ordinance and for which the City's approval is necessary or to which the City is a party (including but not limited to agreements with escrow agents, refunding trustees, providers of Bond Insurance or Reserve Securities, remarketing agents, underwriters, lenders, fiscal agents, Qualified Counterparties, custodians, and the Bond Registrar); and (ii) such other contracts or documents incidental to the issuance and sale of a Series; the establishment of the initial interest rate or rates on a Bond; or the tender, purchase, remarketing,



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or redemption of a Bond, as may in his or her judgment be necessary or appropriate.

**Section 28.** **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 29.** **Ratification of Prior Acts.** Any action taken consistent with the authority of this ordinance, after its passage but prior to the effective date, is ratified, approved and confirmed.

**Section 30.** **Section Headings.** Section headings in this ordinance are used for convenience only and shall not constitute a substantive portion of this ordinance.

**Section 31.** **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.

Exhibit A – List of Outstanding Parity Bonds
Exhibit B – Form of Undertaking to Provide Continuing Disclosure



BOS CITY CLERK

Form revised: December 12, 2012

# 2014 BUDGET LEGISLATION FISCAL NOTE

| Department: | Contact Person/Phone: | CBO Analyst/Phone: |
|---|---|---|
| Finance and Administrative Services (FAS) | Michael Van Dyck/4-8347 | Jennifer Devore/5-1328 |

**Legislation Title:**

AN ORDINANCE relating to the water system of The City of Seattle; amending Ordinance 121939 to conform Ordinance 121939 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

**Summary and background of the Legislation:**

Ordinance 121939 authorizes the City to refund (refinance) Water System bonds in order to capture interest rate savings. The attached legislation amends that ordinance to conform to the City's other current bond ordinances (which were revised this year to address recent statutory changes).

When market interest rates fall, substantial savings may be realized if the City can act quickly to refund (refinance) its outstanding bonds. Over the past 15 years, the City and its utilities have saved over $300 million through such strategic refundings. 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 general obligation bonds under certain conditions. The City's Debt Management Policy Advisory Committee must approve all bond issues. In addition, refundings are guided by the Council-adopted Debt Management Policies. As always, Council must still approve the bond resolution for each issue.

**_X_ This legislation has financial implications.**

**Other Implications:**

**a) Does the legislation have indirect financial implications, or long-term implications?**

This legislation enables the City to act more quickly to take advantage of savings opportunities.

**b) What is the financial cost of not implementing the legislation?**

Small changes in market interest rates can result in substantial losses to the City.

**c) Does this legislation affect any departments besides the originating department?**



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SPU and FAS.

**d) What are the possible alternatives to the legislation that could achieve the same or similar objectives?**

There are no viable alternatives.

**e) Is a public hearing required for this legislation?**
No.

**f) Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?**
No.

**g) Does this legislation affect a piece of property?**
No.

**h) Other Issues:**
None.

**List attachments to the fiscal note below:**

None.

**STATE OF WASHINGTON -- KING COUNTY**

--ss.

305471

No. 124335,336,337,338,339,40

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;TITLE ONLY ORDINANCE

was published on

12/12/13

The amount of the fee charged for the foregoing publication is the sum of $148.50 which amount has been paid in full.

JENNIFER A. BORRERO
COMMISSION EXPIRES
NOTARY
PUBLIC
10-24-15
STATE OF WASHINGTON

Pamela Oglesby

Subscribed and sworn to before me on

12/12/2013

Notary public for the State of Washington,
residing in Seattle

# State of Washington, King County

## City of Seattle

**Title Only Ordinances**

The full text of the following legislation, passed by the City Council on November 25, 2013, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 124335

AN ORDINANCE relating to the electric system of The City of Seattle; amending Ordinance 121941, as amended by Ordinance 122838, to conform Ordinance 121941 to reflect changes recently made by the City to update its standard form of bond ordinances; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124336

AN ORDINANCE relating to the electric system of The City of Seattle; authorizing the issuance and sale of municipal light and power revenue bonds for the purposes of providing funds for certain additions and betterments to and extensions of the existing municipal light and power plant and system of the City, paying the costs of issuance of those bonds and providing for the reserve fund requirement; providing for the terms, conditions, covenants and manner of sale of those bonds; describing the lien of those bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124337

AN ORDINANCE relating to the drainage and wastewater system of The City of Seattle; adopting a system or plan of additions and betterments to and extensions of the existing drainage and wastewater system; authorizing the issuance and sale of drainage and wastewater revenue bonds, in one or more series, for the purposes of paying part of the cost of carrying out that system or plan, providing for the reserve requirement, and paying the costs of issuance of the bonds; providing for certain terms, conditions, covenants and the manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124338

AN ORDINANCE relating to the drainage and wastewater system of The City of Seattle; amending Ordinance 121938, as amended by Ordinance 122209 and Ordinance 122637, to conform Ordinance 121938 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124339

AN ORDINANCE relating to the water system of The City of Seattle; amending Ordinance 121939 to conform Ordinance 121939 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124340

AN ORDINANCE relating to the municipal water system of The City of Seattle; adopting a system or plan of additions or betterments to and extensions of the existing municipal water system; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purposes of paying part of the cost of carrying out that system or plan, providing for the reserve requirement and paying the costs of issuance of the bonds; providing for certain terms, conditions, covenants and the manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

Date of publication in the Seattle Daily Journal of Commerce, December 12, 2013.

12/12(305471)

## STATE OF WASHINGTON -- KING COUNTY

--ss.

305471 No. 124335,336,337,338,339,40

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;TITLE ONLY ORDINANCE

was published on

12/12/13

The amount of the fee charged for the foregoing publication is the sum of $148.50 which amount has been paid in full.

JENNIFER A. BORRERO
NOTARY PUBLIC
COMMISSION EXPIRES 10-24-15
STATE OF WASHINGTON

Pamela [illegible]

Subscribed and sworn to before me on

12/12/2013

Notary public for the State of Washington,
residing in Seattle

# State of Washington, King County

## City of Seattle

**Title Only Ordinances**

The full text of the following legislation, passed by the City Council on November 25, 2013, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar.

Contact: Office of the City Clerk at (206) 684-8344.

ORDINANCE NO. 124335

AN ORDINANCE relating to the electric system of The City of Seattle; amending Ordinance 121941, as amended by Ordinance 122838, to conform Ordinance 121941 to reflect changes recently made by the City to update its standard form of bond ordinances; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124336

AN ORDINANCE relating to the electric system of The City of Seattle; authorizing the issuance and sale of municipal light and power revenue bonds for the purposes of providing funds for certain additions and betterments to and extensions of the existing municipal light and power plant and system of the City, paying the costs of issuance of those bonds and providing for the reserve fund requirement; providing for the terms, conditions, covenants and manner of sale of those bonds; describing the lien of those bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124337

AN ORDINANCE relating to the drainage and wastewater system of The City of Seattle; adopting a system or plan of additions and betterments to and extensions of the existing drainage and wastewater system; authorizing the issuance and sale of drainage and wastewater revenue bonds, in one or more series, for the purposes of paying part of the cost of carrying out that system or plan, providing for the reserve requirement, and paying the costs of issuance of the bonds; providing for certain terms, conditions, covenants and the manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124338

AN ORDINANCE relating to the drainage and wastewater system of The City of Seattle; amending Ordinance 121938, as amended by Ordinance 122209 and Ordinance 122637, to conform Ordinance 121938 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124339

AN ORDINANCE relating to the water system of The City of Seattle; amending Ordinance 121939 to conform Ordinance 121939 to reflect changes recently made by the City to update its standard form of bond ordinance; and ratifying and confirming certain prior acts.

ORDINANCE NO. 124340

AN ORDINANCE relating to the municipal water system of The City of Seattle; adopting a system or plan of additions or betterments to and extensions of the existing municipal water system; authorizing the issuance and sale of water system revenue bonds, in one or more series, for the purposes of paying part of the cost of carrying out that system or plan, providing for the reserve requirement and paying the costs of issuance of the bonds; providing for certain terms, conditions, covenants and the manner of sale of the bonds; describing the lien of the bonds; creating certain accounts of the City relating to the bonds; and ratifying and confirming certain prior acts.

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