

ORDINANCE NO. 885

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION BONDS OF THE CITY IN THE PRINCIPAL AMOUNT OF \$7,825,000 TO PROVIDE FUNDS TO COMPLETE THE CITY'S CIVIC CENTER; PROVIDING THE DATE, FORM, TERMS AND MATURITIES OF SAID BONDS; AUTHORIZING A PRELIMINARY OFFICIAL STATEMENT; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SALE; AND APPROVING THE SALE OF SUCH BONDS.

WHEREAS, the best interests of the inhabitants of the City of Gig Harbor (the "City") require that the City complete its Civic Center project;

WHEREAS, in order to provide the funds required for such purpose, the City now desires to authorize the issuance of limited tax general obligation bonds in the principal amount of \$7,825,000 (the "Bonds") and to authorize the sale of the Bonds;

WHEREAS, the City has received the offer from Banc of America Securities LLC, Seattle, Washington to underwrite the Bonds at terms acceptable to this City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, DO ORDAIN as follows:

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

Bond Fund means the City's "Limited Tax General Obligation Bond Redemption Fund," as described in Section 8 of this ordinance.

Bond Insurance Policy means the financial guaranty insurance policy issued by the Insurer insuring the payment when due of the principal of and interest on the Bonds as provided therein.

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

Bond Registrar means, initially, the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, effecting transfer of ownership of the Bonds and paying interest on and principal of the Bonds.

Bonds means the \$7,825,000 principal amount of the City of Gig Harbor, Washington Limited Tax General Obligation Bonds, 2001 issued pursuant to this ordinance for the purpose of paying costs authorized by Section 2 hereof.

Bond Year means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bonds or the date that is five years after the date of issuance of the Bonds, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bonds.

City means the City of Gig Harbor, Washington, a municipal corporation of the State of Washington.

Code means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

Commission means the Securities and Exchange Commission.

Computation Date means the date selected by the City to make the arbitrage rebate computations.

Computation Period means the period between Computation Dates.

Council means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

DTC means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 3 hereof.

Finance Director means the Finance Director of the City, or any successor to the functions of the Finance Director.

Government Obligations means those obligations now or hereafter defined as such in chapter 39.53 RCW.

Insurer means Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company.

Letter of Representations means the blanket issuer letter of representations from the City to DTC.

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

Net Proceeds, when used with reference with the Bonds, means the principal amount of the Bonds, plus accrued interest and original issue premium, if any, and less original issue discount.

NRMSIR means a nationally recognized municipal securities information repository.

Private Person means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

Private Person Use means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

Project means the completion of the City's Civic Center, which will house and support the City's governmental departments as well as serve as a community center.

Rebatable Arbitrage means the amount required to be paid pursuant to Section 148(f) of the Code

Registered Owner means the person named as the registered owner of a Bond in the Bond Register. For so long as the Bonds are held in book-entry only form, DTC shall be deemed to be the sole Registered Owner.

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

SID means a state information depository for the State of Washington.

Underwriter means Banc of America Securities LLC, Seattle, Washington.

Section 2. Authorization of Bonds and Bond Details. For the purpose of providing funds for the Project, the City shall issue its limited tax general obligation bonds in the aggregate principal amount of \$7,825,000. The bonds shall be general obligations of the City, shall be designated "City of Gig Harbor, Washington Limited Tax General Obligation Bonds, 2001" (the "Bonds"); shall be dated as of June 1, 2001; shall be fully registered as to both principal and interest; shall be in the denomination of \$5,000 each, or any integral multiple thereof, provided that no Bond shall represent more than one maturity; shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall bear interest from their date at the following per annum rates, payable on December 1, 2001, and semiannually thereafter on the first days of each succeeding June and December and shall mature on June 1 of the following years in the following principal amounts:

<u>Maturity Years (June 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>
2007	\$235,000	4.55%
2008	250,000	4.70
2009	260,000	4.80
2010	275,000	4.85
2011	285,000	4.55
2012	300,000	4.65
2013	315,000	4.75
2014	330,000	4.80
2015	345,000	4.90
2016	365,000	4.95
2017	380,000	5.00
2018	400,000	5.05
2019	425,000	5.00

2020	445,000	5.10
2021	470,000	5.10
2022	495,000	5.15
2026	2,250,000	5.25

Section 3. Registration, Exchange and Payments.

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

(b) *Registered Ownership.* The City and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 12 of this ordinance), and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 3(h) hereof, but such Bond may be transferred as herein

provided. All such payments made as described in Section 3(h) shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

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

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

(d) *Use of Depository.*

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

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

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

(iv) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Finance Director determines that it is in the best interest of the beneficial

owners of the Bonds that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The Council shall deliver a written request to the Bond Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt by the Bond Registrar of all then outstanding Bonds together with a written request on behalf of the Council to the Bond Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to register the transfer or to exchange any Bond during the

15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

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

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

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds are no longer in fully immobilized form, interest on the Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the Bond Registrar.

Section 4. Redemption Prior to Maturity and Purchase of Bonds.

(a) *Optional Redemption.* The Bonds maturing in the years 2007 through 2011, inclusive, are not subject to redemption prior to maturity. The Bonds maturing on or after June 1, 2012 are subject to redemption at the option of the City in whole or in part on any date on or after June 1, 2011 (and if in part, with maturities to be selected by the City) at a price of par plus accrued interest, if any, to the date of redemption.

(b) *Mandatory Redemption.* Unless previously redeemed pursuant to the foregoing optional redemption provisions, the Bonds maturing in the year 2026 are subject to mandatory redemption on June 1 of the following years at a price of par plus accrued interest to the date of redemption:

<u>Redemption Years</u>	<u>Redemption Amount</u>
2023	\$520,000
2024	545,000
2025	575,000
2026*	610,000

*Final Maturity

(c) *Purchase of Bonds.* The City reserves the right to purchase any of the Bonds offered to it at any time at a price deemed reasonable by the City.

(d) *Selection of Bonds for Redemption.* For as long as the Bonds are held in book-entry only form, the selection of particular Bonds within a maturity to be redeemed shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds are no longer held in uncertificated form, the selection of such Bonds to be redeemed shall be made as provided in this subsection (c). If the City redeems at any one time fewer than all of the Bonds having the same maturity date, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot (or in such manner determined by the Bond Registrar) in increments of \$5,000. In the case of a Bond of a denomination greater than \$5,000, the City and

the Bond Registrar shall treat each Bond as representing such number of separate Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Bond by \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed, upon surrender of such Bond at the principal office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum thereof, at the option of the Registered Owner, a Bond or Bonds of like maturity and interest rate in any of the denominations herein authorized.

(e) *Notice of Redemption.*

(i) Official Notice. For so long as the Bonds are held in uncertificated form, notice of redemption shall be given in accordance with the operational arrangements of DTC as then in effect, and neither the City nor the Bond Registrar will provide any notice of redemption to any Beneficial Owners. Thereafter (if the Bonds are no longer held in uncertificated form), notice of redemption shall be given in the manner hereinafter provided. Unless waived by any owner of Bonds to be redeemed, official notice of any such redemption (which redemption shall be conditioned by the Bond Registrar on the receipt of sufficient funds for redemption) shall be given by the Bond Registrar on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Register or at such other address as is furnished in writing by such Registered Owner to the Bond Registrar. Mailed notices will also be sent within the same period to Moody's Investors Service, Standard & Poor's Ratings Group and to the Underwriter or their business successors, if any.

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

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

(D) that on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

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

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

(ii) Effect of Notice; Bonds Due. Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City shall default in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Bond Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same maturity and series

in the amount of the unpaid principal. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

(iii) Additional Notice. In addition to the foregoing notice, further notice shall be given by the City as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the Bonds as originally issued; (C) the rate of interest borne by each Bond being redeemed; (D) the maturity date of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed. Each further notice of redemption may be sent at least 35 days before the redemption date to the MSRB, the Insurer, to each NRMSIR, the SID, if any, and to such persons (including securities repositories who customarily at the time receive notices of redemption in accordance with rules promulgated by the SEC) and with such additional information as the City shall deem appropriate, but such mailings shall not be a condition precedent to the redemption of such Bonds.

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

Section 5. Form of Bonds. The Bonds shall be in substantially the following form:

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

Financial Guaranty Insurance Policy No. 18386BE (the "Policy") with respect to payments due for principal of and interest on this bond has been issued by Ambac Assurance Corporation ("Ambac Assurance"). The Policy has been delivered to The Bank of New York, New York, New York, as the Insurance Trustee under said Policy and will be held by such Insurance Trustee or any successor insurance trustee. The Policy is on file and available for inspection at the principal office of the Insurance Trustee and a copy thereof may be secured from Ambac Assurance or the Insurance Trustee. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. The owner of this bond acknowledges and consents to the subrogation rights of Ambac Assurance as more fully set forth in the Policy.

UNITED STATES OF AMERICA

NO. _____

\$ _____

STATE OF WASHINGTON

CITY OF GIG HARBOR, WASHINGTON

LIMITED TAX GENERAL OBLIGATION BOND, 2001

INTEREST RATE: % Maturity DATE: CUSIP NO.:
REGISTERED OWNER: CEDE & CO.
PRINCIPAL AMOUNT:

The City of Gig Harbor, Washington (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay interest thereon from June 1, 2001, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on December 1, 2001, and semiannually thereafter on the first days of each succeeding June and December. Both principal of and interest on this bond are payable in lawful money of the United States of America. Interest shall be paid as provided in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to The Depository Trust Company ("DTC"). Principal shall be paid as provided in the Letter of Representations to the Registered Owner or assigns upon presentation and surrender of this bond at the principal office

of the fiscal agencies of the State of Washington in either Seattle, Washington or New York, New York (collectively, the "Bond Registrar").

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and Ordinance No. 885 duly passed by the City Council on June 11, 2001 (the "Bond Ordinance"). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

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

This bond is one of an authorized issue of bonds of like date, tenor, rate of interest and date of maturity, except as to number and amount in the aggregate principal amount of \$7,825,000 and is issued pursuant to the Bond Ordinance for providing funds to pay the cost of completing the City's Civic Center project and costs of issuance.

The bonds of this issue maturing on and prior to June 1, 2011 are not subject to redemption prior to their stated maturities. The bonds of this issue maturing on and after June 1, 2012 are subject to redemption at the option of the City on and after June 1, 2011 in whole or in part on any date (and if in part, with maturities to be selected by the City), at a price of par plus accrued interest to the date of redemption.

Unless previously redeemed pursuant to the foregoing optional redemption provisions, the Bonds maturing in the year 2026 are subject to mandatory redemption on June 1 of the following years at a price of par plus accrued interest to the date of redemption:

<u>Redemption Years</u>	<u>Redemption Amount</u>
2023	\$520,000
2024	545,000
2025	575,000
2026*	610,000

*Final Maturity

The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to cities without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The City hereby designates the bonds of this issue as "qualified tax-exempt obligations" for investment by financial institutions under Section 265(b) of the Code.

The pledge of tax levies for payment of principal of and interest on the bonds may be discharged prior to maturity of the bonds by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

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

IN WITNESS WHEREOF, the City of Gig Harbor, Washington has caused this bond to be executed by the manual or facsimile signatures of the Mayor and City Clerk and the seal of the City imprinted or impressed hereon as of this first day of June, 2001.

CITY OF GIG HARBOR, WASHINGTON

By /s/ manual or facsimile
Mayor

ATTEST:

 /s/ manual or facsimile
City Clerk

[SEAL]

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Limited Tax General Obligation Bonds, 2001 of the City of Gig Harbor, Washington, dated June 1, 2001.

WASHINGTON STATE FISCAL
AGENCY, as Bond Registrar

By _____

Section 6. Execution of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and City Clerk of the Council.

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

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond may be signed and attested on behalf of the City by such persons who at the date of the actual execution of such Bond, are the proper officers of the City, although at the original date of such Bond any such person shall not have been such officer of the City.

Section 7. Tax Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Bonds and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exemption from federal income taxation of the interest on the Bonds.

(a) *Arbitrage Covenant.* Without limiting the generality of the foregoing, the City covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Bonds or any other funds of the City which may be deemed to be proceeds

of the Bonds pursuant to Section 148 of the Code and the regulations promulgated thereunder which, if such use had been reasonably expected on the dates of delivery of the Bonds to the initial purchasers thereof, would have caused the Bonds to be treated as "arbitrage bonds" within the meaning of such term as used in Section 148 of the Code.

The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon. The City will comply with the requirements of Section 148 of the Code and the applicable regulations thereunder throughout the term of the Bonds.

(b) *Arbitrage Rebate.*

(1) *General Rule.* The City will pay to the United States of America in accordance with the provisions of this section (i) rebate installment payments which, when added to the future value as of the Computation Date of all previous rebate payments made with respect to the Bonds, equal at least 90% of the Rebatable Arbitrage with respect to the Bonds, and (ii) a final rebate installment payment in an amount which, when added to the future value of all previous rebate payments made with respect to the Bonds, equals 100% of the Rebatable Arbitrage.

(2) *Computation of Rebatable Arbitrage.* As of any Computation Date, the Rebatable Arbitrage for the Bonds is the excess of the future value, as of such date, of all Receipts over the future value, as of such date, of all Payments.

(3) *Payment Procedure.*

(i) The first rebate installment payment will be made for a Computation Date that is no later than five years after the issue date of the Bonds. Subsequent rebate installment payments will be made for a Computation Date that is not later than five years

after the previous Computation Date for which rebate installment payment was made. Each rebate installment payment will be paid no later than 60 days after the Computation Date to which the payment relates.

(ii) A final rebate payment will be paid within 60 days of the date the Bonds are Discharged or such other period as is permitted by Internal Revenue Service regulations.

(iii) Each payment of Rebatable Arbitrage will be made to the Internal Revenue Service Center, Ogden, Utah 84201 and will be accompanied by IRS Form 8038-T.

(c) *Private Person Use Limitation for Bonds.* The City covenants that for as long as the Bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bonds to be allocated to any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bonds are allocable to any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the project described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the project funded by the proceeds of the Bonds, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bonds allocable to the state or local governmental use portion of the project to which the Private Person Use of such portion of the project funded by the proceeds of the Bonds relate. The City further covenants that it will comply with any limitations on the use of the project funded by the proceeds of the Bonds by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Bonds. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds.

(d) *Designation under Section 265(b).* The City hereby designates the Bonds as “qualified tax-exempt obligations” for investment by financial institutions under

Section 265(b) of the Code. The City does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during 2001.

(e) *Modification of Tax Covenants.* The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any Bonds.

Section 8. Bond Fund and Provision for Tax Levy Payments. There has previously been established a fund of the City known as the "1997 Limited Tax General Obligation Bond Fund," which fund shall hitherto be known as the "Limited Tax General Obligation Bond Fund" (the "Bond Fund") and use to pay debt service on all outstanding limited tax general obligation bonds of the City, including the Bonds. The City hereby irrevocably covenants that, unless the principal of and interest on the Bonds are paid from other sources, it will make annual levies of taxes within and as part of the tax levy permitted to cities without a vote of the electorate upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay such principal and interest as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 9. Defeasance. In the event that the City, in order to effect the payment, retirement or redemption of any Bond, sets aside in the Bond Fund or in another special account, cash or noncallable Government Obligations, or any combination of cash and/or noncallable Government Obligations, in amounts and maturities which, together with the known earned

income therefrom, are sufficient to redeem or pay and retire such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such cash and/or noncallable Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on such Bond. The owner of a Bond so provided for shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal, premium, if any, and interest from such special account, and such Bond shall be deemed to be not outstanding under this ordinance.

The City shall give written notice of defeasance to the owners of all Bonds so provided for within 30 days of the defeasance and to the SID, if any, and to each NRMSIR or to the MSRB in accordance with Section 14.

Section 10. Sale of Bonds. The Bonds shall be sold by negotiated sale to the Underwriter, under the terms and conditions thereof as provided in its purchase offer and in this ordinance. Said purchase offer is hereby in all respects accepted and approved, and the Finance Director is authorized to execute the purchase offer on behalf of the City.

The Mayor and the Finance Director of the City are hereby authorized to review and approve on behalf of the City the preliminary and final Official Statements relative to the Bonds with such additions and changes as may be deemed necessary or advisable to them. The preliminary Official Statement for the Bonds, dated May 30, 2001, is hereby deemed final for the purposes of Securities and Exchange Commission Rule 15c2-12.

The Finance Director and other City officials, agents and representatives are hereby authorized and directed to do everything necessary for the prompt issuance, execution and

delivery of the Bonds to the Underwriter and for the proper application and use of the proceeds of sale of the Bonds.

Section 11. Bond Insurance.

(a) In accordance with the offer of the Underwriter to purchase the Bonds, the Council hereby approves the commitment of the Insurer to provide a bond insurance policy guaranteeing the payment when due of principal of and interest on the Bonds (the "Bond Insurance Policy"). The Council further authorizes and directs all proper officers, agents, attorneys and employees of the City to cooperate with the Insurer in preparing such additional agreements, certificates, and other documentation on behalf of the City as shall be necessary or advisable in providing for the Bond Insurance Policy.

(b) *Payments Under the Bond Insurance Policy.* As long as the Bond Insurance Policy shall be in full force and effect, the City and the Bond Registrar agree to comply with the following provisions:

(1) If, at least one day prior to an interest payment date, the City or the Bond Registrar determines that there will be insufficient funds in the Bond Fund to pay the principal of or interest on the Bonds on such interest payment date, the City or the Bond Registrar shall so notify the Insurer. Such notice shall specify the amount of the anticipated deficiency, the Bonds to which such deficiency is applicable and whether such Bonds will be deficient as to principal or interest, or both. If the City or the Bond Registrar has not so notified the Insurer at least one day prior to an interest payment date, the Insurer will make payments of principal or interest due on the Bonds on or before the first business day next following the date on which the Insurer shall have received notice of nonpayment from the City or the Bond Registrar.

(2) The City or the Bond Registrar shall, after giving notice to the Insurer as provided in subsection (1) above, make available to the Insurer and, at the Insurer's direction, to the United States Trust Company of New York, as insurance trustee for the Insurer or any successor insurance trustee (the "Insurance Trustee"), the registration books of the City maintained by the Bond Registrar, and all records relating to the Bond Fund maintained under this ordinance.

(3) The City or the Bond Registrar shall provide the Insurer and the Insurance Trustee with a list of registered owners of Bonds entitled to receive principal or interest payments from the Insurer under the terms of the Bond Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Bonds entitled to receive full or partial interest payments from the Insurer, and (ii) to pay principal on Bonds surrendered to the Insurance Trustee by the registered owners of Bonds entitled to receive full or partial principal payments from the Insurer.

(4) The City or the Bond Registrar shall, at the time it provides notice to the Insurer pursuant to subsection (1) above, notify registered owners of Bonds entitled to receive the payment of principal or interest thereon from the Insurer (i) as to the fact of such entitlement, (ii) that the Insurer will remit to them all or a part of the interest payments next coming due upon proof of bondholder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from the Insurer, they must surrender their Bonds (along with an appropriate instrument of assignment satisfactory to the Insurance Trustee to permit ownership of such Bonds to be registered in the name of the Insurer) for payment to the Insurance Trustee, and not

the Bond Registrar, and (iv) that should they be entitled to receive partial payment of principal from the Insurer, they must surrender their Bonds for payment thereon first to the Bond Registrar, who shall note on such Bonds the portion of the principal paid by the Bond Registrar, and then, along with an appropriate instrument of assignment satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

(5) In the event that the Bond Registrar has notice that any payment of principal of or interest on a Bond which has become due for payment and which is made to a bondholder by or on behalf of the City has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Bond Registrar shall, at the time the Insurer is notified pursuant to subsection (1) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from the Insurer to the extent of such recovery if sufficient funds are not otherwise available, and the Bond Registrar shall furnish to the Insurer its records evidencing the payments of principal of and interest on the Bonds which have been made by the Bond Registrar and subsequently recovered from registered owners and the dates on which such payments were made.

(6) In addition to those rights granted the Insurer under this ordinance, the Insurer shall, to the extent it makes payment of principal of or interest on Bonds, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Bond Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Bond Registrar shall note the Insurer's rights as subrogee on the registration books of the City maintained by the Bond Registrar upon receipt from the Insurer of

proof of the payment of interest thereon to the registered owners of the Bonds, and (ii) in the case of subrogation as to claims for past due principal, the Bond Registrar shall note the Insurer's rights as subrogee on the registration books of the City maintained by the Bond Registrar upon surrender of the Bonds by the registered owners thereof together with proof of the payment of principal thereof.

(7) While the Bond Insurance Policy is in effect, the City shall furnish to the Insurer:

(i) as soon as practicable after the filing thereof, a copy of any financial statement and a copy of any audit and annual report of the City at no cost to the Insurer;

(ii) a copy of any notice to be given to the registered owners of the Bonds, including, without limitation, notice of any redemption of or defeasance of Bonds, and any certificate rendered pursuant to this ordinance relating to the security for the Bonds at no cost to the Insurer; and

(iii) such additional information it may reasonably request.

(8) The City shall notify the Insurer of any failure of the City to provide relevant notices and certificates.

(9) The City will permit the Insurer to discuss the affairs, finances and accounts of the City or any information the Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the City. The City will permit the Insurer to have access to and to make copies of all books and records relating to the Bonds at any reasonable time.

(10) The Insurer shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within 30 days after receipt of

written notice of the direction from the Insurer shall be deemed a default hereunder; provided, however, that if compliance cannot occur within such period, then such period will be extended so long as compliance is begun within such period and diligently pursued, but only if such extension would not materially adversely affect the interests of any registered owner of the Bonds.

(11) Notwithstanding any other provision of this ordinance, the City shall immediately notify the Insurer if at any time there are insufficient moneys to make any payments of principal and/or interest as required and immediately upon the occurrence of any event of default hereunder.

(c) *Rights of Insurer.*

(1) Any provision of this ordinance expressly recognizing or granting rights in or to the Insurer may not be amended in any manner which affects the rights of the Insurer without the prior written consent of the Insurer.

(2) Unless otherwise provided in this section, the Insurer's consent shall be required in addition to bondholder consent, when required, for the following purposes: (i) execution and delivery of any amendment, supplement or change to or modification of this ordinance; (ii) removal of the Bond Registrar and selection and appointment of any successor Bond Registrar other than a successor state fiscal agent; and (iii) any initiation or approval of any action not described in (i) or (ii) above which requires bondholder consent.

(3) Any reorganization or liquidation plan with respect to the City must be acceptable to the Insurer. In the event of any reorganization or liquidation, the Insurer shall have the right to vote on behalf of all Bond holders who hold Ambac Assurance-insured Bonds absent a default by the Insurer under the Bond Insurance Policy.

(4) Anything in this ordinance to the contrary notwithstanding, upon the occurrence and continuance of an event of default as defined herein, the Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bond holders or the Bond Registrar for the benefit of the Bond holders.

(5) Notwithstanding anything herein to the contrary, in the event that the principal and/or interest due on the Bonds shall be paid by the Insurer pursuant to the Bond Insurance Policy, the Bonds shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the City and all covenants, agreements and other obligations of the City to the registered owners shall continue to exist and shall run to the benefit of the Insurer, and the Insurer shall be subrogated to the rights of such registered owners.

(6) To the extent that this ordinance confers upon or gives or grants to the Insurer any right, remedy or claim under or by reason of this ordinance, the Insurer is hereby explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder.

Section 12. Undertaking to Provide Ongoing Disclosure.

(a) *Contract/Undertaking.* This section constitutes the City's written undertaking for the benefit of the owners of the Bonds as required by Section (b)(5) of the Rule. The City is an obligated person with respect to less than \$10,000,000 of municipal securities, including the Bonds.

(b) *Financial Statements/Operating Data.* The City agrees to provide or cause to be provided to each person upon request or to the SID, if any, a copy of its latest publicly available annual financial statements prepared in accordance with the Budget Accounting and Reporting System prescribed by the Washington State Auditor pursuant to

RCW 43.09.200 (or any successor statute). Such annual statements shall be available upon request to the office of the City Finance Director, the current address for whom is 3105 Judson Street, Gig Harbor, WA 98335; telephone number: (253) 851-8136.

(c) *Material Events.* The City agrees to provide or cause to be provided, in a timely manner, to the SID, if any, and to each NRMSIR or to the MSRB notice of the occurrence of any of the following events with respect to the Bonds, if material:

- Principal and interest payment delinquencies;
- Non-payment related defaults;
- Unscheduled draws on debt service reserves reflecting financial difficulties;
- Unscheduled draws on credit enhancements reflecting financial difficulties;
- Substitution of credit or liquidity providers, or their failure to perform;
- Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- Modifications to the rights of Bond owners;
- Bond calls (optional, contingent or unscheduled Bond calls other than scheduled sinking fund redemptions for which notice is given pursuant to Exchange Act Release 34-238560);
- Defeasances;
- Release, substitution or sale of property, securing repayment of the Bonds;
- and
- Rating changes.

Solely for purposes of disclosure, and not intending to modify this undertaking, the City advises that no credit enhancements, debt service reserves or property secure payment of the Bonds.

(d) *Termination/Modification.* The City's obligations to provide notices of material events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. Any provision of this section shall be null and void if the City (1) obtains an opinion of nationally recognized bond counsel to the effect that the portion of the Rule that requires that provision is invalid, has been repealed retroactively or otherwise does not apply to the Bonds and (2) notifies each NRMSIR and the SID, if any, of such opinion and the cancellation of this section. The City may amend this section with an approving opinion of nationally recognized bond counsel in accordance with the Rule.

(e) *Bond Owner's Remedies Under This Section.* The right of any bondowner or beneficial owner of Bonds to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the City's obligations under this section, and any failure by the City to comply with the provisions of this undertaking shall not be an event of default with respect to the Bonds. For purposes of this section, "beneficial owner" means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees or depositories.

Section 13. Application of Proceeds of Bonds. A fund of the City known as the "General Government Capital Assets Fund," also known as Fund 301, ("Fund 301") has hitherto been created in the office of the Treasurer and used to pay a portion of the costs of the Project.

At the time of delivery of the Bonds, the proceeds of the Bonds shall be deposited as follows:

(a) The accrued interest, if any, to the date of delivery shall be deposited to the Bond Fund and used to pay a portion of interest on the Bonds coming due on December 1, 2001.

(b) The remaining proceeds shall be deposited into Fund 301 and used to pay or reimburse the costs of the Project and all costs incidental thereto and to the issuance of the Bonds.

Proceeds of the Bonds deposited into Fund 301 after all of such costs have been paid or reimbursed, or the Council determines not to construct portions of such Project, may be used to pay costs of other legally authorized capital expenditures of the City or shall be deposited in the Bond Fund. Proceeds of the Bonds deposited in Fund 301 may be invested as permitted by law. All interest earned and profits derived from such investments shall be retained in and become a part of Fund 301 and used to pay legally authorized capital expenditures of the City or deposited into the Bond Fund.

Section 14. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Bond Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City in connection therewith and upon his/her filing with the City evidence satisfactory to the City that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City with indemnity satisfactory to the City.

Section 15. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants

and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

ADOPTED by the City Council of the City of Gig Harbor, Washington, at a regular meeting thereof held this 11th day of June, 2001.

CITY OF GIG HARBOR, WASHINGTON



Mayor

ATTEST:



City Clerk

First Reading: May 14, 2001
Date Adopted: June 11, 2001
Date of Publication: June 20, 2001
Effective Date: June 11, 2001