

CITY OF GIG HARBOR, WASHINGTON

WATER AND SEWER REVENUE REFUNDING BONDS

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE REFUNDING BONDS OF THE CITY IN ONE OR MORE SERIES IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,500,000 TO PROVIDE FUNDS NECESSARY TO REFUND CERTAIN OUTSTANDING WATER AND SEWER REVENUE BONDS OF THE CITY; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT; DELEGATING AUTHORITY TO APPROVE THE FINAL TERMS OF THE BONDS; APPROVING AN UNDERTAKING FOR ONGOING DISCLOSURE; AND RESERVING THE RIGHT TO ISSUE REVENUE BONDS IN THE FUTURE ON A PARITY WITH THE BONDS HEREIN AUTHORIZED UPON COMPLIANCE WITH CERTAIN CONDITIONS.

APPROVED ON MAY 28, 2019

PREPARED BY:

K&L GATES LLP

CITY OF GIG HARBOR, WASHINGTON
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TABLE OF CONTENTS*

	Page
Section 1. Definitions.....	4
Section 2. Compliance with Parity Conditions.....	13
Section 3. Authorization of Bonds and Bond Details.....	14
Section 4. Registration, Exchange and Payments.....	15
Section 5. Redemption and Purchase.....	20
Section 6. Priority of Payments from Revenue Fund.....	23
Section 7. Rate Stabilization Account.....	24
Section 8. Bond Fund.....	25
Section 9. Defeasance.....	28
Section 10. Tax Covenants.....	29
Section 11. Bond Covenants.....	29
Section 12. Issuance of Future Parity Bonds.....	35
Section 13. Other Obligations.....	42
Section 14. Form of Bonds and Certificate of Authentication.....	42
Section 15. Execution and Delivery of Bonds.....	45
Section 16. Designation of Refunded Bonds; Sale of Bonds.....	46
Section 17. Application of Bond Proceeds; Refunding Plan.....	49
Section 18. Undertaking to Provide Ongoing Disclosure.....	51
Section 19. Lost or Destroyed Bonds.....	55
Section 20. Supplements and Amendments.....	56
Section 21. Severability.....	58
Section 22. Effect of Covenants, Etc.....	58
Section 23. Effective Date.....	59

EXHIBIT A — Form of Escrow Deposit Agreement

EXHIBIT B — Form of Costs of Issuance Agreement

* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

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WHEREAS, the City of Gig Harbor, Washington, a municipal corporation of the State of Washington (the “City”), operates a combined water and sewerage system (herein further defined as the “System”); and

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

<u>Series Designation</u>	<u>Ordinance Number</u>	<u>Date of Issue</u>	<u>Original Principal Amount</u>	<u>Currently Outstanding (05/01/2019)</u>	<u>Final Maturity Dates</u>
2010	1184	03/30/2010	\$ 6,035,000	\$ 3,850,000	04/01/2030
2010B	1193	08/10/2010	5,580,000	5,580,000	10/01/2030
2010C	1193	08/10/2010	2,610,000	410,000	10/01/2019
2017	1357	03/23/2017	6,220,000	5,865,000	10/01/2036

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

WHEREAS, the City’s Water and Sewer Revenue Bonds, 2010 (Taxable Build America Bonds — Direct Payment to Issuer), were authorized to be issued under authority of Ordinance No. 1184 approved by the City Council (the “Council”) on March 8, 2010 (herein referred to as

the “2010A Bond Ordinance”), were issued in the original aggregate principal amount of \$6,035,000, and remain outstanding as follows:

Maturity Years (April 1)	Principal Amounts	Interest Rates
2020	\$ 290,000	4.953%
2021	300,000	5.103
2022	310,000	5.253
2023	320,000	5.403
2024	335,000	5.553
2025	345,000	5.703
2030*	1,950,000	6.263

* Term Bond

(herein referred to as the “2010A Bonds”); and

WHEREAS, the 2010A Bonds maturing on and after April 1, 2021 are subject to redemption at the option of the City on and after April 1, 2020 on any date at a price of 100% plus accrued interest to the date of redemption; and

WHEREAS, the City’s Water and Sewer Revenue Bonds, 2010B (Taxable Build America Bonds — Direct Payment to Issuer), were authorized to be issued under authority of Ordinance No. 1193 approved by the Council on July 26, 2010 (herein referred to as the “2010B/C Bond Ordinance”), were issued in the original aggregate principal amount of \$5,580,000, and remain outstanding as follows:

Maturity Years (October 1)	Principal Amounts	Interest Rates
2020	\$ 420,000	4.801%
2025*	2,340,000	5.551
2030*	2,820,000	6.177

* Term Bonds

(the “2010B Bonds”); and

WHEREAS, the 2010B Bonds maturing on and after October 1, 2021 are subject to redemption at the option of the City on and after October 1, 2020 on any date at a price of 100% plus accrued interest to the date of redemption; and

WHEREAS, the 2020 maturity of the 2010A Bonds and the 2020 maturity of the 2010B Bonds may be defeased as provided in the 2010A Bond Ordinance and the 2010B/C Bond Ordinance, respectively, and the callable maturities of the 2010A Bonds and the 2010B Bonds may be defeased and redeemed prior to their maturities as described above (collectively, the “Refunding Candidates”); and

WHEREAS, upon the defeasance of 2010A Bonds and the 2010B Bonds in accordance with the 2010A Bond Ordinance and the 2010B/C Bond Ordinance, respectively, (i) the 2010A Bonds and the 2010B Bonds that are defeased will no longer qualify as Build America Bonds and (ii) the City will no longer be able to collect federal interest payment subsidies in connection with the defeased 2010A Bonds or the defeased 2010B Bonds; and

WHEREAS, it appears that all or a portion of the Refunding Candidates may be defeased and/or and refunded; and

WHEREAS, the 2010A Bond Ordinance, the 2010B/C Bond Ordinance and Ordinance No. 1357, approved by the City Council on February 27, 2017 (together, the “Outstanding Parity Bond Ordinances”) authorize the City to issue revenue bonds on a parity of lien with the Outstanding Parity Bonds upon compliance with the terms and conditions set forth in the Outstanding Parity Bond Ordinances, and said conditions will be met with respect to the Bonds (hereinafter defined) authorized herein; and

WHEREAS, the City Council has determined that it is in the best interests of the City to authorize the issuance and sale of the City’s water and sewer revenue refunding bonds (as further

described herein, the “Bonds”) on a parity of lien with the Outstanding Parity Bonds for the purpose of defeasing and/or refunding all or a portion of the Refunding Candidates; and

WHEREAS, this Council has determined to delegate to certain City officials the authority to select the Refunding Candidates to be defeased and/or refunded (the “Refunded Bonds”), to approve the number of series, tax status, final principal amounts, interest rates, redemption provisions, maturity dates, interest payment dates, and principal maturities of the Bonds for a limited time;

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

Section 1. Definitions. As used in this ordinance, unless a different meaning clearly appears from the context:

Acquired Obligations mean the Government Obligations, if any, now or hereafter acquired by the City pursuant to Section 17 of this ordinance to effect the defeasance and/or refunding of the Refunded Bonds.

Annual Debt Service means, with respect to any issue of Parity Bonds or other evidences of indebtedness payable from Revenue of the System, as applicable, the amount required in a given fiscal year or Base Period for the payment of the principal of and interest on such Parity Bonds or evidences of indebtedness. Absent a written election by the Designated Representative to the contrary, the Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

Average Annual Debt Service means the average amount of annual debt service which will become due in any fiscal year hereafter on all Parity Bonds then outstanding. Absent a written election by the Designated Representative to the contrary, Average Annual Debt Service

shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

Base Period means, for purposes of satisfying certain conditions for the issuance of Future Parity Bonds, any 12 consecutive months out of the 30 months immediately preceding the month of delivery of the Future Parity Bonds.

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

Bond Fund means the City of Gig Harbor Utility Bond Redemption Fund created in the office of the Treasurer of the City pursuant to Section 13 of Ordinance No. 468.

Bond Purchase Agreement means the agreement for the purchase of the Bonds between the Underwriter and the City, executed pursuant to Section 16 of this ordinance.

Bond Register means the books or records maintained by the Bond Registrar containing the name and mailing address of the owner of each Bond or nominee of such owner and the principal amount and number of Bonds held by each owner or nominee.

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

Bonds means the City of Gig Harbor, Washington, Water and Sewer Revenue Refunding Bonds, [year of issue/series designation], issued pursuant to this ordinance.

Call Date means, with respect to Refunded Bonds that are subject to optional redemption, each date determined by the Designated Representative as the date of redemption for a series of

such Refunded Bonds, or, with respect to Refunded Bonds that are not subject to optional redemption, the maturity date of such Refunded Bonds.

City means the City of Gig Harbor, Washington, a municipal corporation duly organized and existing under and by virtue of the laws 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.

Consultant means at any time an independent licensed professional engineer appointed by the City to perform the duties of the Consultant as required by this ordinance. For the purposes of delivering any certificate required by Section 12 hereof and making the calculation required by Section 12 hereof, the term Consultant shall also include any independent public accounting firm appointed by the City to make such calculation or to provide such certificate.

Costs of Issuance Agreement means the agreement of that name, to be entered into by the City and the Escrow Agent, providing for the payment of certain costs of issuance with respect to the issuance of a series of the Bonds, substantially in the form attached hereto as Exhibit B.

Costs of Maintenance and Operation mean all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses with respect to the System, but excludes depreciation, payments for debt service or into reserve accounts, costs of capital additions to or replacements of the System, municipal taxes or payments to the City in lieu of taxes.

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.

Debt Service Account means the account of that name created in the Bond Fund by Ordinance No. 468 of the City.

Designated Representative means any of the following: (a) the Mayor, (b) the Finance Director, (c) the City Administrator or (d) any official or employee of the City designated in writing by any of the foregoing.

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 4 hereof.

EMMA means the MSRB's Electronic Municipal Market Access system, currently located at www.emma.msrb.org.

Escrow Agent means U.S. Bank National Association, Seattle, Washington, or such other escrow agent designated in writing by the Designated Representative.

Escrow Agreement means each Escrow Deposit Agreement between the City and the Escrow Agent authorized to be executed pursuant to Section 17 of this ordinance substantially in the form attached hereto as Exhibit A.

Federal Tax Certificate means the certificate of that name executed and delivered by the City at the time of issuance and delivery of a series of the Bonds issued on a federally tax-exempt basis.

First Interest Payment Date means the first interest payment date for the Bonds set forth in the Bond Purchase Agreement.

Future Parity Bonds means any water and sewer revenue bonds which the City may hereafter issue having a lien upon the Revenue of the System for the payment of the principal

thereof and interest thereon equal to the lien upon the Revenue of the System of the Outstanding Parity Bonds and the Bonds.

Government Obligations has the meaning given such term in RCW Ch. 39.53, as amended to date and as the same may hereinafter be amended and shall include any successor statute thereto.

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

Maximum Annual Debt Service means the highest dollar amount of Annual Debt Service in any fiscal year or Base Period for all outstanding Parity Bonds and/or for all subordinate lien evidences of indebtedness secured by Revenue of the System, as the context requires. Absent a written election by the Designated Representative to the contrary, Maximum Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation.

MSRB means the Municipal Securities Rulemaking Board or any successors to its functions. Until otherwise designated by the MSRB or the SEC, any information, reports or notices submitted to the MSRB in compliance with the Rule are to be submitted through EMMA.

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

Outstanding Parity Bond Ordinances mean the 2010A Bond Ordinance, the 2010B/C Bond Ordinance and Ordinance No. 1357 approved by the Council on February 27, 2017.

Outstanding Parity Bonds mean the revenue bonds identified in the second recital of this ordinance.

Outstanding Parity Bonds issued prior to 2017 means the 2010A Bonds, the 2010B Bonds and the 2010C Bonds.

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

Parity Requirement means, for a Base Period, Net Revenue equal to or greater than:

(a) 125% of Maximum Annual Debt Service for all Parity Bonds computed by deducting from Annual Debt Service the Annual Debt Service for each series or issue of Parity Bonds which is covered by assessments within a utility local improvement district which is determined by multiplying such Annual Debt Service by the percentage determined by dividing the utility local improvement district assessments originally pledged to such issue/series by the original principal amount of such issue/series, and

(b) 100% of Maximum Annual Debt Service for all subordinate lien evidences of indebtedness secured by Revenue of the System.

Rate Covenant means the covenants described in Section 11(c) of this ordinance.

Rate Stabilization Account means the account created pursuant to Section 7 of this ordinance.

Record Date means the close of business on the 15th day prior to each day on which a payment of interest on the Bonds is due and payable.

Refunded Bonds mean the Refunding Candidates selected by the Designated Representative pursuant to the authority granted in Section 16 of this ordinance.

Refunding Candidates mean the outstanding 2010A Bonds and the 2010B Bonds.

Registered Owner means the person named as the registered owner of a Bond in the Bond Register.

Reserve Account means the account created in the Bond Fund by Section 15 of Ordinance No. 468 of the City and shall include any subaccount created therein.

Reserve Account Requirement means (a) for as long as the Outstanding Parity Bonds issued prior to 2017 remain outstanding, the lesser of (1) 10% of the net proceeds of each series of Parity Bonds, (2) Maximum Annual Debt Service, (3) 1.25 times Average Annual Debt Service, or (4) such amount as shall be required to maintain the exemption of interest of any series of Parity Bonds issued on a federally tax-exempt basis from taxation under the Code, and (b) from and after all Outstanding Parity Bonds issued prior to 2017 are no longer outstanding, such lesser amount as shall be set forth in the ordinance authorizing the issuance of a series of Future Parity Bonds.

Revenue Fund means the “City of Gig Harbor Utility Revenue Fund” authorized to be created by Section 12 of Ordinance No. 468 of the City, into which fund all of the Revenue of the System is to be deposited, as collected. The Revenue Fund may be maintained as one or more separate funds of the City into which all of the Revenue of the System shall be deposited.

Revenue of the System means all earnings, revenue and moneys received by the City from or on account of the operation of the System, including the income from investments of money in the Revenue Fund and the Bond Fund or from any other investment thereof. **Revenue of the System** shall also include any federal or state reimbursements of operating expenses to the extent such expenses are included as **Costs of Maintenance and Operation**. Unless declined by a written election by the Designated Representative, the term **Revenue of the System** shall not include any federal subsidy legally available to pay the principal of or interest on Parity Bonds.

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

Savings Target means a dollar amount equal to at least four percent (4.0%) of the outstanding principal amount of the Refunded Bonds of each series; i.e., the present value of (i) the aggregate debt service on the Refunded Bonds of a series minus (ii) the aggregate debt service on the Bonds allocable to the refunding of that series (calculated by deducting scheduled federal subsidy payments with respect to the Refunded Bonds of each series from annual debt service and assuming the continuation of current sequestration of such payment as if the refunding had not occurred), after payment of all costs of issuance of the Bonds.

SEC means the United States Securities and Exchange Commission.

System means the existing sanitary sewerage collection and treatment system of the City, as it now exists and as it may later be added to, extended and improved, and the existing water supply and distribution system of the City, as it now exists and as it may later be added to, extended and improved for as long as any Parity Bonds remain outstanding.

Term Bonds means any Parity Bonds identified as such in the proceedings authorizing the issuance thereof or the related bond purchase agreement.

Treasurer means the Finance Director of the City.

2010A Bond Ordinance means Ordinance No. 1184 of the City adopted by the Council on March 8, 2010.

2010A Bonds mean the City's outstanding Water and Sewer Revenue Bonds, 2010 (Taxable Build America Bonds – Direct Payment to Issuer), issued under date of March 30, 2010, pursuant to the 2010A Bond Ordinance.

2010B/C Bond Ordinance means Ordinance No. 1193 of the City adopted by the Council on July 26, 2010, authorizing the 2010B Bonds and 2010C Bonds.

2010B Bonds means the City's outstanding Water and Sewer Revenue Bonds, 2010B (Taxable Build America Bonds – Direct Payment to Issuer), issued under date of August 10, 2010, pursuant to the 2010B/C Ordinance.

2010C Bonds means the City's outstanding Water and Sewer Revenue Bonds, 2010C (Tax-Exempt), issued under date of August 10, 2010, pursuant to the 2010B/C Bond Ordinance.

2017 Bonds means the City's outstanding Water and Sewer Revenue Bonds, 2017, issued under date of March 23, 2017, pursuant to Ordinance No. 1357.

Underwriter means D.A. Davidson & Co., Seattle, Washington.

Rules of Interpretation. In this ordinance, unless the context otherwise requires:

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

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

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

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

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

(f) Words importing the singular number include the plural number and vice versa.

Section 2. Compliance with Parity Conditions. The Council hereby finds and determines, as required by Section 11 of the 2010A Bond Ordinance, Section 11 of the 2010B/C Bond Ordinance and Section 12 of Ordinance No. 1357, that each of the following conditions will be satisfied at the time of issuance of the Bonds of each series:

(a) The Bonds of each series will be issued for the purpose of providing funds to refund at or prior to their maturity the Refunded Bonds for debt service savings and will not require an increase of more than \$5,000 in net debt service payments to be made by the City in any year for principal and interest;

(b) There will be no deficiency in the Bond Fund or the Reserve Account on the date of issuance of each series of the Bonds;

(c) The principal of and interest on the Bonds will be payable out of the Bond Fund and the requirements for meeting the Reserve Account Requirement will be met as provided in each then applicable Outstanding Parity Bond Ordinance; and

(d) There are no additions or improvements to the System being financed with the proceeds of the Bonds, and any and all assessments levied within a utility local improvement district established by the City are hereby obligated to be paid into the Bond Fund.

The conditions contained in the Outstanding Parity Bond Ordinances having been complied with or assured, the payments required herein to be made out of the Revenue Fund into the Bond Fund, including the Reserve Account, to pay and secure the payment of the principal of and interest on the Bonds of each series shall constitute a lien and charge upon Net Revenue

equal in rank with the lien and charge thereon for the payments required to be made for the Outstanding Parity Bonds.

Section 3. Authorization of Bonds and Bond Details. For the purpose of defeasing and/or refunding the Refunded Bonds, funding the Reserve Account Requirement, if required, and paying costs of issuance, the City shall now issue and sell its water and sewer revenue refunding bonds in one or more series in the aggregate principal amount of not to exceed \$9,500,000 (the “Bonds”). The Bonds shall be designated as the “City of Gig Harbor, Washington, Water and Sewer Revenue Refunding Bonds, [year of issue/series designation],” with such description and additional designation for identification purposes as may be approved by the Designated Representative; shall be dated as of their date of initial delivery to the Underwriter; shall be fully registered as to both principal and interest; shall be in denominations of \$5,000, or any integral multiple thereof within a maturity, provided that no Bond shall represent more than one maturity; shall be issued in the aggregate principal amount set forth in the Bond Purchase Agreement; and shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification. The Bonds shall bear interest from their date of delivery to the Underwriter until the Bonds bearing such interest have been paid or their payment duly provided for, at the rates and payable on the dates set forth in the Bond Purchase Agreement and shall mature on the dates and in the years and in the principal amounts set forth in the Bond Purchase Agreement, all as approved by the Designated Representative pursuant to Section 16 of this ordinance.

The Bonds shall be obligations only of the Bond Fund and shall be payable and secured as provided herein. The Bonds do not constitute an indebtedness or general obligation of the

City within the meaning of the constitutional or statutory provisions and limitations of the State of Washington.

Section 4. Registration, Exchange and Payments.

(a) *Bond Registrar/Bond Register.* The City hereby specifies and adopts the system of registration and transfer for the Bonds approved by the Washington State Finance Committee from time to time through the appointment of the state fiscal agent, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register and effecting transfer of ownership of the Bonds (the “Bond Registrar”). The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient records for the registration and transfer of the Bonds (the “Bond Register”), which shall be open to inspection by the City. The Bond Registrar may be removed at any time at the option of the Designated Representative upon prior notice to the Bond Registrar, DTC, each party entitled to receive notice pursuant to Section 18 and a successor Bond Registrar appointed by the Designated Representative. 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 on the Bonds.

(b) *Registered Ownership.* Except as provided in the last sentence of Section 4(c) or Sections 18 and 20 of this ordinance, 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, 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 4(h) hereof, but such Bond may be transferred as herein provided. All such payments made as described in Section 4(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/Letter 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 has executed and delivered to DTC a 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.

(d) *Use of Depository.*

(1) 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 Designated Representative pursuant to subsection (2) below or such substitute depository’s successor; or (C) to any person as provided in subsection (4) below.

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

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request on behalf of the Designated Representative, issue a single new Bond for each maturity of the Bonds 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 Designated Representative.

(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Designated Representative determines that it is in the best interest of the Beneficial Owners of the Bonds that such owners be able to obtain 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 Designated Representative 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 Designated Representative 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 such Bond 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 canceled 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 or denominations. The Bond Registrar shall not be obligated to register the transfer or exchange of any Bond during a period beginning at the opening of business on the Record Date with respect to an interest payment date and ending at the close of business on such interest payment date, or, in the case of any proposed redemption of the Bonds, after the mailing of notice of the call for redemption of such Bonds.

(f) *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 of the Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of the Bonds 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 360-day year and twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest 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 Record Date, and 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; provided, however, that if so requested in writing by the Registered Owner of at least \$1,000,000 principal amount of Bonds, interest will be paid by wire transfer on the date due to an account with a bank located within the United States.

Section 5. Redemption and Purchase.

(a) *Optional Redemption.* The Bonds may be called for redemption at any time prior to their scheduled maturity under terms approved by the Designated Representative in the Bond Purchase Agreement pursuant to Section 16 of this ordinance, provided that any such Bonds shall be subject to optional redemption not later than 10.5 years from their date of issuance.

(b) *Mandatory Redemption.* The Bonds may be subject to mandatory redemption to the extent, if any, set forth in the Bond Purchase Agreement and as approved by the Designated Representative pursuant to Section 16 of this ordinance.

(c) *Purchase of Bonds.* The City reserves the right to use at any time any surplus Revenue of the System available after providing for the payments required by paragraphs First, through Fifth of Section 6 of this ordinance, or other available funds, to purchase any of the Bonds offered to the City at any price deemed reasonable by the City.

(d) *Selection of Bonds for Redemption.* As long as the Bonds are held in book-entry only form, the selection of Bonds to be redeemed shall be made in accordance with the operational arrangements 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 (d). If the City redeems at any one time fewer than all of the Bonds of a series 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 other 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 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. If Bonds are called for optional redemption, portions of the principal amount of such Bonds, in installments of \$5,000 or any integral multiple of \$5,000, may be redeemed. If less than all of the principal amount of any 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 amount thereof, a new Bond or Bonds, at the option of the Registered Owner, of like series, maturity and interest rate in any denomination authorized by this ordinance.

(e) *Notice of Redemption.* Written notice of any redemption of Bonds prior to maturity (which notice, in the case of an optional redemption, may be conditional and may be revoked at any time prior to the date fixed for redemption) shall be given by the Bond Registrar on behalf of the City by first class mail, postage prepaid, not less than 20 days nor more than 60 days before the date fixed for redemption to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. This requirement shall be deemed complied with when notice is mailed to the Registered Owners at their last addresses shown on the Bond Register, whether or not such notice is actually received by the Registered Owner.

So long as the Bonds are in book-entry only form, notice of redemption shall be given to Beneficial Owners to be redeemed in accordance with the operational arrangements then in effect at DTC, and neither the City nor the Bond Registrar shall be obligated or responsible to confirm that any notice of redemption is, in fact, provided to Beneficial Owners.

Each notice of redemption prepared and given by the Bond Registrar to Registered Owners of Bonds shall contain the following information: (1) the date fixed for redemption, (2) the redemption price, (3) if fewer than all outstanding Bonds of a series are to be redeemed, the identification by maturity (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (4) that (unless the notice of redemption is a conditional notice, in which case the notice shall state that such Bond will become due and payable and interest shall cease to accrue on the date fixed for redemption if and to the extent that the specified condition or conditions have been satisfied as of the date fixed for the redemption of Bonds) on the date fixed for redemption the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest shall cease to accrue from the date fixed for redemption, (5) that the Bonds are to be surrendered for payment at the principal office of the Bond Registrar, (6) the CUSIP numbers of all Bonds being redeemed, (7) the dated date of the Bonds being redeemed, (8) the rate of interest for each Bond being redeemed, (9) the date of the notice, and (10) any other information deemed necessary by the Bond Registrar to identify the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(f) *Effect of Redemption.* Unless the City has revoked a notice of optional redemption prior to the date fixed for redemption (or unless the City provided a conditional notice and the conditions for redemption set forth therein are not satisfied prior to the date fixed for redemption), the City shall transfer to the Bond Registrar amounts that, in addition to other money, if any, held by the Bond Registrar, will be sufficient to redeem, on the date fixed for

redemption, all the Bonds to be redeemed. If and to the extent that the specified condition or conditions have been satisfied as of the date fixed for redemption for such Bond, interest on each such Bond shall cease to accrue.

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

(h) *Term Bonds.* To the extent the City purchases for cancellation or optionally redeems any Bonds that are Term Bonds, the City may reduce the mandatory sinking fund requirements of such Bonds of the same maturity, in like aggregate principal amount for the year as specified in the final Official Statement.

Section 6. Priority of Payments from Revenue Fund. There has heretofore been established in the office of the Treasurer a special fund of the City known as the “City of Gig Harbor Utility Revenue Fund” (the “Revenue Fund”), into which the Revenue of the System is deposited as collected. The Revenue Fund shall be held separate and apart from all other funds and accounts of the City, and the Revenue of the System shall be used only for the following purposes and in the following order of priority:

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

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

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

Fourth, to make all payments required to be made into the Reserve Account created to secure the payment of the Parity Bonds;

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

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

Section 7. Rate Stabilization Account. The City hereby determines that the establishment and maintenance of a Rate Stabilization Account will even out fluctuations in Net Revenue and help to alleviate the need for short-term rate adjustments. There is hereby authorized to be created and the Treasurer is directed to create a separate fund of the City to be designated as the “Rate Stabilization Account.” The following provisions of this Section 7 shall be effective from and after the date on which the Outstanding Parity Bonds issued prior to 2017 are no longer outstanding. Money in the Rate Stabilization Account may be transferred as determined from time to time by the City. The City may make payments into the Rate Stabilization Account from the Revenue Fund at any time. Money in the Rate Stabilization Account may be withdrawn at any time and used for the purpose for which Revenue of the System may be used. Amounts withdrawn from the Rate Stabilization Account shall increase Revenue of the System for the period for which they are withdrawn, and amounts deposited in the Rate Stabilization Account shall reduce Revenue of the System for the period for which they

are deposited. Credits to or from the Rate Stabilization Account that occur within 90 days after the end of a fiscal year may be treated as occurring within such fiscal year. Earnings on the Rate Stabilization Account shall be credited to the Revenue Fund.

Section 8. Bond Fund. A special fund of the City known as the “City of Gig Harbor Utility Bond Redemption Fund” (the “Bond Fund”) has heretofore been created by the City for the sole purpose of paying and securing the payment of Parity Bonds. The Bond Fund includes a Debt Service Account and a Reserve Account.

(a) *Payments into Debt Service Account.* The Debt Service Account has heretofore been created in the Bond Fund for the purpose of paying the principal of, premium, if any, and interest on Parity Bonds.

As long as any Parity Bonds remain outstanding, the City hereby obligates and binds itself to set aside and pay from the Revenue Fund into the Debt Service Account those amounts necessary, together with such other funds as are on hand and available in the Debt Service Account, to pay the principal of and the interest on such Parity Bonds on or prior to the respective dates the same become due (and if such payment is made on the due date, such payment shall be made in immediately available funds):

(1) Such amounts as are required to pay the interest scheduled to become due on outstanding Parity Bonds; and

(2) Such amounts with respect to outstanding Parity Bonds as are required (A) to pay maturing principal, (B) to make any required sinking fund payments, and (C) to redeem outstanding Parity Bonds in accordance with any mandatory redemption provisions.

(b) *Payments into Reserve Account.* The Reserve Account has heretofore been created in the Bond Fund for the purpose of securing the payment of the principal of and the interest on all Parity Bonds.

For purposes of calculating the Reserve Account Requirement for as long as Outstanding Parity Bonds issued prior to 2017 remain outstanding, in the event that the City issues any Term Bonds in the future and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the term Average Annual Debt Service shall be deemed to exclude from principal an amount of Term Bonds equal to such mandatory payments, and from interest, the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the dates of the respective deposits.

The City hereby covenants and agrees that on the date of issuance of the Bonds, the balance on hand in the Reserve Account will be at least equal to the Reserve Account Requirement. From and after the date when the Outstanding Parity Bonds issued prior to 2017 are no longer outstanding, the Reserve Account Requirement shall be the dollar amount specified in writing by the Designated Representative and approved by the Council.

The City hereby further covenants and agrees that in the event it issues any Future Parity Bonds that it will determine the amount of the Reserve Account Requirement and provide in the ordinance authorizing the issuance of the same for the funding of the Reserve Account Requirement no later than the date of issuance of such Future Parity Bonds.

The City further covenants and agrees that when the required deposits have been made into the Reserve Account, it will at all times maintain therein an amount at least equal to the

Reserve Account Requirement. Whenever there is a sufficient amount in the Bond Fund, including the Reserve Account and the Debt Service Account, to pay the principal of, premium if any, and interest on all outstanding Parity Bonds, the money in the Reserve Account may be used to pay such principal, premium and interest. Money in the Reserve Account may also be withdrawn to redeem and retire, and to pay the premium, if any, and interest due to such date of redemption, on any outstanding Parity Bonds or for legally permitted purposes, as long as the moneys left remaining on deposit in the Reserve Account are equal to the Reserve Account Requirement.

In the event there shall be a deficiency in the Debt Service Account to meet maturing installments of either interest on or principal of and interest on the outstanding bonds payable out of such Account, such deficiency shall be made up from the Reserve Account by the withdrawal of moneys therefrom. Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up out of all available Revenue of the System after making necessary provision for the payments required to be made by subparagraphs First, Second and Third of Section 6 hereof.

(c) *Priority of Lien of Payments into Bond Fund.* The amounts so pledged to be paid into the Bond Fund are hereby declared to be a lien and charge upon the Revenue of the System junior in lien to the Costs of Maintenance and Operation, equal to the lien of the charges upon such Revenue to pay and secure the payment of the principal of and interest on the Outstanding Parity Bonds and any Future Parity Bonds, and prior and superior to all other charges of any kind or nature whatsoever.

(d) *Application and Investment of Money in the Bond Fund.* Moneys in the Bond Fund shall be invested in any investments that are permitted by law for the investment of City

funds. Investments in the Debt Service Account shall mature prior to the date on which such money shall be needed for required interest or principal payments. Investments in the Reserve Account shall mature not later than the last maturity of the Parity Bonds secured thereby. All interest earned and income derived by virtue of such investments shall remain in the Bond Fund and be used to meet the required deposits into any account therein.

(e) *Sufficiency of Revenues.* The Council hereby finds that in fixing the amounts to be paid into the Bond Fund out of the Revenue of the System, it has exercised due regard for the Costs of Maintenance and Operation and has not obligated the City to set aside and pay into such Fund a greater amount of such Revenue than in its judgment will be available over and above the Costs of Maintenance and Operation.

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, which are direct obligations of the United States or obligations unconditionally guaranteed by the United States, 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 Bond Registrar shall provide notice of defeasance of Bonds to Registered Owners and to each party entitled to receive notice in accordance with Section 18 of this ordinance.

Section 10. Tax Covenants.

(a) *The Bonds.* The City shall comply with the terms of the Federal Tax Certificate for Bonds issued on a federally tax-exempt basis.

(b) *Designation under Section 265(b) of the Code.* The Designated Representative is authorized to determine whether the Bonds may be qualified under Section 265(b) of the Code and to designate the Bonds as “qualified tax-exempt obligations” pursuant to Section 265(b) of the Code for investment by financial institutions.

Section 11. Bond Covenants.

(a) *Maintenance of System.* The City shall at all times maintain, preserve and keep the properties of the System in good repair, working order and condition and will from time to time make all necessary and proper repairs, renewals, replacements, extensions and betterments thereto, so that at all times the business carried on in connection therewith will be properly and advantageously conducted and said properties of the System and the business in connection therewith administered in an efficient manner and at a reasonable cost.

(b) *Collection and Application of Assessments.* The City does not currently have any outstanding utility local improvement districts and has no current plans to create a utility local improvement district. In the event that the City creates a utility local improvement district, all assessments levied within such utility local improvement district will be deposited in the Bond Fund and utilized for the uses and purposes provided therein. It is hereby further provided, however, that nothing in this ordinance or in this subsection shall be construed to prohibit the City from issuing revenue bonds having a lien on the Revenue of the System and the money in

the Revenue Fund junior to the lien on such revenue and money for the payment of the principal of and interest on the Bonds and pledging as security for the payment of such junior lien bonds assessments levied in any utility local improvement district that may have been created to pay part or all of the cost of improvements to the System for which such junior revenue bonds were specifically issued.

(c) *Rate Covenant.* The City shall fix, maintain and collect rates and charges for the use of the services and facilities and all commodities sold, furnished or supplied by the System, which shall be fair and nondiscriminatory and shall adjust such rates and charges from time to time so that:

(1) the Revenue of the System derived therefrom will at all times be sufficient (A) to pay the Costs of Maintenance and Operation, (B) to pay the principal of and interest on all Parity Bonds, as and when the same shall become due and payable, (C) to make adequate provision for the payment of any Term Bonds, (D) to make when due all payments which the City is obligated to make into the Reserve Account and all other payments which the City is obligated to make pursuant to this ordinance, and (E) to pay all taxes, assessments or other governmental charges lawfully imposed on the System or the revenue therefrom or payments in lieu thereof and any and all other amounts which the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract; and

(2) (A) for so long as the Outstanding Parity Bonds issued prior to 2017 remain outstanding, the Net Revenue in each calendar year will equal at least 1.25 times the maximum amount required to be paid in any succeeding calendar year for the principal of and interest on all Parity Bonds then outstanding and (B) from and after the Outstanding Parity

Bonds issued prior to 2017 no longer remain outstanding, Net Revenue in each fiscal year must be at least equal to the greater of:

(i) 125% of the amounts required in such fiscal year to be paid as scheduled debt service (principal and interest) on all Parity Bonds, computed by deducting from such debt service the debt service for each series or issue of Parity Bonds which is covered by utility local improvement district assessments which is determined by multiplying such debt service by the percentage determined by dividing the utility local improvement district assessments originally pledged to such issue/series by the original principal amount of such issue/series, and

(ii) amounts required to be deposited during such fiscal year from Net Revenue into the Bond Fund, but excluding from each of the foregoing, payments made from refunding debt and capitalized debt service (the "Rate Covenant").

The maximum amount required to be paid as principal and interest shall be calculated net of any federal subsidy legally available to pay such principal and interest.

In the event the City issues any Term Bonds, and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the words "principal of and interest on all outstanding Parity Bonds" in subsection (c)(2)(A) shall be deemed to exclude from "principal" an amount of Term Bonds equal to such mandatory payments, and from "interest" the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the date of the respective deposits.

(d) *Net Revenue*. There shall be maintained in the Revenue Fund sufficient moneys to enable the City to meet the Costs of Maintenance and Operation of the System on a current

basis. The City shall not change any rate or charge for service of the System as now established by the existing rate ordinance or ordinances that will reduce substantially the annual Net Revenue below that which would have been obtained before such change, unless the City shall have on file a certificate from a licensed professional engineer experienced in the design, construction and operation of municipal utilities or from an independent certified public accountant stating that the rates and charges as so changed will provide Net Revenue sufficient to comply with all the covenants and requirements of this ordinance.

(e) *Sale of Properties.* The City will not sell or otherwise dispose of the System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment into the Bond Fund (or defeasance account) of cash or Government Obligations sufficient (taking into account interest to be earned on any such Government Obligations) to pay the principal of and interest on all then outstanding Parity Bonds, nor will it sell or otherwise dispose of any part of the useful operating properties of the System unless such facilities are replaced or provision is made for payment into the Bond Fund (or defeasance account) of the greatest of the following:

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

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

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

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

Notwithstanding any other provision of this paragraph, the City may sell or otherwise dispose of any of the works, plant, properties and facilities of the System or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or useful in such operation, without making any deposit into the Bond Fund.

(f) *No Encumbrances.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the System or the Revenue of the System, or any part thereof, prior or superior to the lien thereon for the payment of 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 Revenue of the System, or any part thereof, or upon any funds in the hands of the City, prior to or superior to the lien of Parity Bonds, or which might impair the security of Parity Bonds.

(g) *Insurance.* The City will keep the works, plants and facilities comprising the System insured, and will carry such other insurance, with responsible insurers, with policies payable to the City, against risks, accidents or casualties, at least to the extent that insurance is usually carried by private corporations operating like properties, or will implement a self-insurance program with reserves adequate, in the judgment of the Council, to protect the City

and the owners of the Bonds against loss. In the event of any loss or damage, the City will promptly repair or replace the damaged portion of the insured property and apply the proceeds of any insurance policy for that purpose; or in the event the City should determine not to repair or reconstruct such damaged portion of the properties of the System, the proceeds of such insurance shall be paid into the Reserve Account to the extent that such transfer shall be necessary to make up any deficiency in said Reserve Account and the balance, if any, shall at the option of the City, be used either for repairs, renewals, replacements, or capital additions to the System, for the redemption of Parity Bonds, or for deposit into the Debt Service Account.

(h) *Books and Accounts.* The City shall keep proper books of account which shall be kept in accordance with any applicable rules and regulations prescribed by the State of Washington. The City shall prepare, and any owner of Parity Bonds may obtain copies of, balance sheets and profit and loss statements showing in reasonable detail the financial condition of the System as of the close of each year, and the income and expenses of such year, including the amounts paid into the Revenue Fund, the Bond Fund, and into any and all special funds or accounts created pursuant to the provisions of this ordinance, and the amounts expended for maintenance, renewals, replacements, and capital additions to the System.

(i) *No Free Service.* The City will not furnish or supply or permit the furnishing or supplying of any commodity, service or facility furnished by or in connection with the operation of the System, free of charge to any person, firm or corporation, public or private, so long as any Bonds are outstanding and unpaid.

(j) *Sound Expenditures.* The City will not expend any of the Revenue of the System or the proceeds of any indebtedness payable from Revenue of the System for any extensions, betterments and improvements to the System which are not legally required or economically

sound, and which will not properly and advantageously contribute to the conduct of the business of the System in an efficient manner.

(k) *Enforcement of Collection of Service Charges.* The City shall promptly take action to enforce the payment of delinquent service charges by such means as are legally available.

Section 12. Issuance of Future Parity Bonds.

I. Conditions to the Issuance of Future Parity Bonds for as Long as the Outstanding Parity Bonds issued prior to 2017 Remain Outstanding.

The City hereby covenants and agrees with the owners of the Bonds that so long as each series of the Outstanding Parity Bonds issued prior to 2017 remain outstanding as follows:

The City will not issue any bonds or incur indebtedness having a greater or equal priority of lien upon the Revenue of the System to pay and secure the payment of the principal of and interest on such bonds or indebtedness than the priority of lien created on such Revenue to pay and secure the payment of the principal of and interest on the Parity Bonds except as follows:

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

First, providing funds to acquire, construct, reconstruct, install, or replace any equipment, facilities, additions, betterments, or other capital improvements to the System for which it is authorized by law to issue revenue bonds, or

Second, refunding at or prior to their maturity, any revenue bond anticipation notes, or outstanding revenue bonds or other obligations payable out of the Revenue of the System and to pledge that payments will be made out of the Revenue of the System and into the Bond Fund, including the Reserve Account therein, to pay and secure the payment of the principal of and interest on such Future Parity Bonds on a parity with the payments required

herein to be made out of such Revenue into such Fund and Account to pay and secure the payment of the principal of and interest on any Parity Bonds then outstanding, upon compliance with the following conditions:

(1) At the time of the issuance of any Future Parity Bonds there is no deficiency in the Bond Fund, including the Reserve Account.

(2) If there are assessments levied in any utility local improvement district to pay for additions and improvements to and extensions of the System which will be constructed from the proceeds of such Future Parity Bonds, the ordinance authorizing such Future Parity Bonds shall require that such assessments be paid into the Bond Fund.

(3) If there are assessments levied in any utility local improvement district pledged to be paid into a warrant or bond redemption fund for revenue bonds or warrants being refunded by Future Parity Bonds, the ordinance authorizing the Future Parity Bonds shall require such assessments to be paid into the Bond Fund.

(4) The principal of and interest on the Future Parity Bonds shall be payable out of the Bond Fund and the requirements for meeting the Reserve Account Requirement in Section 8(b) hereof shall be met.

(5) Prior to the delivery of any Future Parity Bonds the City shall have on file a certificate of an independent professional engineer, certified public accountant or Designated Representative dated not earlier than 90 days prior to the date of delivery of such Future Parity Bonds and showing that the Net Revenue determined and adjusted as hereafter provided for each calendar or fiscal year after the issuance of such Future Parity Bonds (the "Adjusted Net Revenue") will equal at least 1.25 times the amount required in any such year for the payment of the principal of and interest on all Parity Bonds then outstanding, including the Future Parity

Bonds proposed to be issued, provided, however, that the certificate of a Designated Representative shall be based on actual historical Net Revenue for a period of any 12 consecutive months out of the 24 months immediately preceding the date of delivery of such proposed Future Parity Bonds, and no adjustments to that Net Revenue shall be allowed.

In the event the City issues any Term Bonds, and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the words “principal of and interest on all outstanding Parity Bonds” in the preceding sentence shall be deemed to exclude from “principal” an amount of Term Bonds equal to such mandatory payments, and from “interest” the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the dates of the respective deposits. The “principal or interest” on Parity Bonds shall be calculated net of any federal subsidy legally available to pay the principal of or interest on Parity Bonds.

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

(i) any increase or decrease in Net Revenue which would result if any change in rates and charges adopted prior to the date of such certificate and subsequent to the beginning of such 12-month period, had been in force during the full 12-month period;

(ii) any increase or decrease in Net Revenue estimated by such engineer or accountant to result from any additions, betterments and improvements to and extensions of any facilities of the System which (a) became fully operational during such 12-month period, (b) were under construction at the time of such certificate or (c) will be constructed from the proceeds of the Parity Bonds to be issued;

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

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

The certificate of such engineer or accountant or the Designated Representative, as applicable, shall be conclusive and the only evidence required to show compliance with the provisions and requirements of this subsection (5).

Notwithstanding the foregoing requirement, if Future Parity Bonds are to be issued for the purpose of refunding at or prior to their maturity any part or all of the then outstanding Parity Bonds and the issuance of such refunding Parity Bonds results in a debt service savings and does not require an increase of more than \$5,000 in any year for principal and interest on such refunding Parity Bonds, the certificate required by subsection (a)(5) of this section need not be obtained.

II. Conditions to the Issuance of Future Parity Bonds from and after the Outstanding Parity Bonds Issued Prior to 2017 Are No Longer Outstanding.

From and after the date when the Outstanding Parity Bonds issued prior to 2017 are no longer outstanding, the City hereby covenants and agrees with the owners of the Bonds as follows:

(a) *Conditions upon the Issuance of Future Parity Bonds.* As long as any Parity Bonds remain outstanding, the City hereby further covenants and agrees that it will not issue any bonds or evidences of indebtedness with a lien on Revenue of the System senior or prior to the lien thereon of Parity Bonds. The City hereby reserves the right to issue Future Parity Bonds, but only if:

(1) the City has not been in default of its Rate Covenant for the immediately preceding fiscal year,

(2) the ordinance authorizing the issuance of such Future Parity Bonds provides that the Reserve Account Requirement, if any, shall be funded no later than the date of delivery of the Future Parity Bonds, and

(3) except as provided in (b) below, there is filed on or before the date of issue of such Future Parity Bonds a certificate (prepared as described in subsection (c) or (d) below) demonstrating fulfillment of the Parity Requirement, commencing with the first full fiscal year following the date on which any portion of interest on the series of Future Parity Bonds then being issued no longer will be paid from the proceeds of such series of Future Parity Bonds.

(b) *No Certificate Required.* The certificate described in the foregoing subsection (a)(3) is not required as a condition to the issuance of Future Parity Bonds:

(1) if the Future Parity Bonds being issued are for the purpose of refunding (for savings) outstanding Parity Bonds; or

(2) if the Future Parity Bonds are being issued to pay costs of construction of facilities of the System for which Future Parity Bonds had been issued previously and the principal amount of the Future Parity Bonds being issued for completion purposes does not exceed an amount equal to an aggregate of 15% of the principal amount of Future Parity Bonds theretofore issued for those facilities and reasonably allocable to the facilities to be completed, as shown in a written certificate of the Designated Representative, and there is delivered a Consultant's certificate stating that the nature and purpose of the facilities has not materially changed.

(c) *Certificate of the City Without A Consultant.* If required pursuant to subsection (a)(3), a certificate may be delivered by the City (executed by the Designated Representative) without a Consultant if Net Revenue for the Base Period (confirmed by an independent auditor) conclusively demonstrates that the Parity Requirement will be fulfilled commencing with the first full fiscal year following the date on which any portion of interest on the series of Future Parity Bonds then being issued will not be paid from the proceeds of such series of Future Parity Bonds.

(d) *Certificate of a Consultant.* Unless compliance with the requirements of subsection (a)(3) have been otherwise satisfied (as provided in (b) or (c) above), compliance with the Parity Requirement shall be demonstrated conclusively by a certificate of a Consultant. The Consultant may calculate "Net Revenue" for purposes of the certificate by adjusting the Net Revenue for a Base Period by adding the following:

(1) The net revenue derived from those customers of the System that have become customers during such Base Period or thereafter and prior to the date of the certificate, adjusted to reflect a full year's net revenue from each such customer to the extent such net revenue was not included in the Base Period.

(2) The estimated annual net revenue to be derived from any person, firm, association, private or municipal corporation under any executed contract for service, which net revenue was not included in any of the sources of net revenue described in this subsection (d).

(3) The estimated annual net revenue to be derived from the operation of any additions or improvements to or extensions of the System under construction but not completed at the time of such certificate and not being paid for out of the proceeds of sale of such Future Parity Bonds being issued, and which net revenue is not otherwise included in any of the sources of net revenue described in this subsection (d).

(4) The estimated annual net revenue to be derived from the operation of any additions and improvements to or extensions of the System being paid for out of the proceeds of sale of such Future Parity Bonds being issued.

If the City will not derive any revenue as a result of the construction of the additions, improvements or extensions being made or to be made to the System within the provisions of subparagraphs (3) and (4) immediately above, the estimated normal Costs of Maintenance and Operation (excluding any transfer of money to other funds of the City and license fees, taxes and payments in lieu of taxes payable to the City) of such additions, improvements and extensions shall be deducted from estimated annual net revenue.

The words “historical net revenue” or “net revenue” as used in this subsection (d) shall mean the Revenue of the System or any part or parts thereof less the normal expenses of maintenance and operation of the System or any part or parts thereof, but before depreciation.

Such “historical net revenue” or “net revenue” shall be adjusted to reflect the rates and charges effective on the date of such certificate if there has been any change in such rates and charges during or after the Base Period.

Section 13. Other Obligations.

(a) *Subordinate Lien Obligations.* Nothing herein contained shall prevent the City from issuing revenue bonds or other obligations which are a charge upon the Revenue of the System junior or inferior to the payments required by this ordinance to be made out of such Revenue into the Bond Fund, including the Reserve Account, to pay and secure the payment of any outstanding Parity Bonds.

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

Section 14. Form of Bonds and Certificate of Authentication. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

No. _____

\$ _____

STATE OF WASHINGTON
CITY OF GIG HARBOR
WATER AND SEWER REVENUE REFUNDING BOND, [Year of Issuance]

INTEREST RATE: MATURITY DATE: CUSIP NO.:

REGISTERED OWNER: CEDE & Co.

PRINCIPAL AMOUNT: _____ AND NO/DOLLARS

THE CITY OF GIG HARBOR, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "City"), promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, solely from the special fund of the City known as the "City of Gig Harbor Utility Bond Redemption Fund" (the "Bond Fund"), the Principal Amount indicated above and to pay interest thereon from the Bond Fund from _____, 20__, or the most recent date to which interest has been paid or duly provided for or until payment of this bond at the Interest Rate set forth above, payable on _____ 1, 20__, and semiannually thereafter on the first days of each _____ and _____. Both principal of and interest on this bond are payable in lawful money of the United States of America. For so long as the bonds of this issue are held in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of The Depository Trust Company ("DTC") referred to in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to DTC. The fiscal agent of the state of Washington is acting as the registrar, authenticating agent and paying agent for the bonds of this issue (the "Bond Registrar").

This bond is one of an authorized issue of bonds of the City of like date and tenor except as to number, amount, rate of interest and date of maturity in the aggregate principal amount of \$_____. This issue of bonds is authorized by Ordinance No. ____ of the City (the "Bond Ordinance") for the purpose of defeasing and/or refunding certain indebtedness of the City's water and sewer system (the "System"). Capitalized terms used in this bond, not otherwise defined, shall have the meanings given such terms in the Bond Ordinance.

The bonds of this issue are subject to optional [and mandatory] redemption prior to their scheduled maturity as provided in the Bond Purchase Agreement.

The bonds of this issue are not general obligations of the City. The City hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all the covenants of this bond and the Bond Ordinance.

The bonds of this issue are not "private activity bonds" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). The City has [not] designated this

bond and the bonds of this issue as “qualified tax-exempt obligations” for investment by financial institutions under Section 265(b) of the Code.

This bond is payable solely out of the Revenue of the System. Both principal of and interest on this bond are payable solely out of the special fund of the City known as the Bond Fund. The City does hereby pledge and bind itself to set aside from Revenue of the System, and to pay into the Bond Fund, including the Reserve Account therein, the various amounts required by the Bond Ordinance to be paid into and maintained in said Fund and Account, all within the times provided by said Bond Ordinance.

To the extent more particularly provided by the Bond Ordinance, the amounts so pledged to be paid from the Revenue Fund out of the Revenue of the System into the Bond Fund and the accounts therein shall be a lien and charge thereon equal in rank to the lien and charge upon said revenue of the Outstanding Parity Bonds and the amounts required to pay and secure the payment of any revenue bonds of the City hereafter issued on a parity with Outstanding Parity Bonds and the bonds of this issue and superior to all other liens and charges of any kind or nature except the Costs of Maintenance and Operation of the System.

The City has further bound itself to maintain the System in good repair, working order and condition, to operate the same in an efficient manner and at a reasonable cost, and to establish, maintain and collect rates and charges for as long as any of the bonds of this issue are outstanding that will make available, for the payment of the principal thereof and interest thereon as the same shall become due,

The pledge of Revenues of the System and other obligations of the City under the Bond Ordinance may be discharged at or prior to the maturity or redemption of the bonds of this issue upon the making of provision for the payment thereof on the terms and conditions set forth 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 the Bond Registrar.

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.

IN WITNESS WHEREOF, the City of Gig Harbor, Washington has caused this bond to be signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be impressed, imprinted or otherwise reproduced hereon, all as of this ___ day of _____, 20__.

CITY OF GIG HARBOR, WASHINGTON

By _____
/s/ manual or facsimile
Mayor

(SEAL)

ATTEST:

/s/ manual or facsimile
City Clerk

CERTIFICATE OF AUTHENTICATION

Date of Authentication: _____

This bond is one of the bonds described in the within-mentioned Bond Ordinance and is one of the Water and Sewer Revenue Refunding Bonds, [Year of Issuance] of the City of Gig Harbor, Washington, dated _____, 20__.

WASHINGTON STATE FISCAL AGENT,
Bond Registrar

By _____
Authorized Signer

Section 15. Execution and Delivery of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be impressed, imprinted or otherwise reproduced on the Bonds.

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 also be signed and attested on behalf of the City by such persons who are at the actual date of delivery of such Bond 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 16. Designation of Refunded Bonds; Sale of Bonds.

(a) *Designation of Refunded Bonds.* As outlined in the recitals of this ordinance, all or a portion of the Refunding Candidates may be defeased and/or called for redemption prior to their scheduled maturities. The Designated Representative is hereby authorized to select some or all of the Refunding Candidates and designate those Refunding Candidates as the “Refunded Bonds,” if and to the extent that the net present value aggregate savings with respect to each series of the Refunded Bonds to be realized as a result of the defeasance and/or refunding after payment of all allocable costs of issuance is at least equal to the Savings Target.

(b) *Bond Sale.* The Bonds shall be sold at negotiated sale to the Underwriter pursuant to the terms of the Bond Purchase Agreement. Any of the parties identified as a Designated Representative is hereby authorized to negotiate terms for the purchase of the Bonds and execute the Bond Purchase Agreement, with such terms as are approved by the Designated Representative pursuant to this section and consistent with this ordinance. The Council has

determined that it would be in the best interest of the City to delegate to a Designated Representative for a limited time the authority to approve the final interest rates, aggregate principal amount, principal amounts of each maturity of the Bonds and terms of redemption. A Designated Representative is hereby authorized to approve the final interest rates, aggregate principal amount, principal amounts of each maturity of the Bonds and terms of redemption in the manner provided hereafter so long as: (i) the aggregate principal amount of the Bonds does not exceed \$9,500,000, (ii) the true interest cost of the Bonds is not greater than 3.75%, (iii) the Savings Target is met, and (iv) the final maturity of the Bonds is no later than October 1, 2030.

In determining the final interest rates, aggregate principal amount, principal maturities and redemption rights, the Designated Representative, in consultation with City staff and the Underwriter, shall take into account those factors that, in his or her judgment, will result in the most favorable interest cost on the Bonds to their maturity, including, but not limited to current financial market conditions and current interest rates for obligations comparable in tenor and quality to the Bonds. Subject to the terms and conditions set forth in this Section 16, any of the parties identified as a Designated Representative is hereby authorized to execute the final form of the Bond Purchase Agreement. Following the execution of the Bond Purchase Agreement, a Designated Representative shall provide a report to the Council, describing the final terms of the Bonds approved pursuant to the authority delegated in this section. The authority granted to the Designated Representative by this Section 16 shall expire on May 28, 2020. If a Bond Purchase Agreement for the Bonds has not been executed by May 28, 2020, the authorization for the issuance of the Bonds shall be rescinded, and the Bonds shall not be issued nor their sale approved unless such Bonds shall have been re-authorized by ordinance of the Council. The ordinance re-authorizing the issuance and sale of such Bonds may be in the form of a new

ordinance repealing this ordinance in whole or in part or may be in the form of an amendatory ordinance approving a bond purchase agreement or establishing terms and conditions for the authority delegated under this Section 16.

(c) *Delivery; Documentation.* Upon the passage and approval of this ordinance, the proper officials of the City, including the Designated Representative, are authorized and directed to undertake all action necessary for the prompt execution and delivery of the Bonds to the Underwriter thereof and for the proper application and use of the proceeds of sale thereof, and further to execute all closing certificates and documents required to effect the closing and delivery of the Bonds in accordance with the terms of the Bond Purchase Agreement.

The Designated Representative 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. In furtherance of the foregoing, the Designated Representative is authorized to approve and enter into agreements for the payment of costs of issuance, including Underwriter's discount, the fees and expenses specified in the Bond Purchase Agreement, including fees and expenses of Underwriter and other retained services, including bond counsel, rating agency, fiscal agent, and other expenses customarily incurred in connection with issuance and sale of bonds.

(d) *Preliminary and Final Official Statements.* The Designated Representative is authorized to ratify, execute, deliver and approve for purposes of the Rule, on behalf of the City, the official statement (and to approve, deem final and deliver any preliminary official statement) and any supplement thereto relating to the issuance and sale of the Bonds with such changes, if any, as may be deemed to be appropriate by the Designated Representative.

Section 17. Application of Bond Proceeds; Refunding Plan.

(a) *Reserve Account.* The portion of the proceeds of the Bonds, if any, designated by the Designated Representative shall be deposited into the Reserve Account, which portion shall be, together with the balance therein, sufficient to meet the Reserve Account Requirement.

(b) *Refunding Plan.* The balance of the net proceeds of sale of the Bonds, together with other funds, if any, provided by the City shall be remitted to the Escrow Agent and shall be used immediately upon receipt by the Escrow Agent in accordance with the terms of the Escrow Agreement and Costs of Issuance Agreement to defease the 2010A Bonds and 2010B Bonds that are designated as Refunded Bonds, and to pay related costs of issuance. The City shall defease the Refunded Bonds and discharge such obligations and shall purchase certain Government Obligations (which obligations so purchased, are herein called “Acquired Obligations”), bearing such interest and maturing as to principal and interest in such amounts and at such times which, together with any necessary beginning cash balance, will provide for the payment of:

(1) Interest on the Refunded Bonds as such becomes due on and prior to their Call Date; and

(2) The redemption price (100% of par) of the Refunded Bonds on their Call Date.

(c) *Escrow Agent/Escrow Agreement.* The Escrow Agent is hereby authorized to act as the escrow agent for the Refunded Bonds. The Designated Representative is hereby authorized to designate an accounting firm to act as escrow verification agent. A beginning cash balance, if any, and Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Bonds after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance

shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Bonds.

In order to carry out the purposes of this section, the Designated Representative is authorized and directed to execute and deliver to the Escrow Agent, an Escrow Deposit Agreement and a Cost of Issuance Agreement attached hereto as Exhibit A and Exhibit B, respectively.

(d) *Implementation of Refunding Plan.* Upon the deposit of the Acquired Obligations and cash, if necessary, in the escrow account by the Escrow Agent, the City shall irrevocably call the callable Refunded Bonds for redemption on their Call Date in accordance with the provisions of the 2010 A Bond Ordinance and the 2010B/C Bond Ordinance, as applicable. Said defeasance and call for redemption of the Refunded Bonds shall be irrevocable after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notices of the defeasance and/or redemption of the Refunded Bonds in accordance with the applicable provisions of the 2010A Bond Ordinance and 2010B/C Bond Ordinance. The Designated Representative is authorized and requested to provide whatever assistance is necessary to accomplish such defeasance and/or redemption and the giving of notices therefor. The costs of publication of such notices shall be an expense of the City.

The Escrow Agent is hereby authorized and directed to pay to the paying agent for the Refunded Bonds, sums sufficient to pay, when due, the payments specified in of subsection (b) above. All such sums shall be paid from the cash and Acquired Obligations deposited with said Escrow Agent pursuant to this section, and the income therefrom and proceeds thereof.

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

The City hereby irrevocably sets aside for and pledges to the payment of the Refunded Bonds the money and obligations, if any, to be deposited with the Escrow Agent pursuant to the Escrow Agreement to accomplish the plan of refunding and defeasance of the Refunded Bonds set forth herein and in the Escrow Agreement. When all of the Refunded Bonds have been redeemed and retired, the City may cause any remaining money held by the Escrow Agent under the Escrow Agreement to be transferred to the Bond Fund.

Section 18. Undertaking to Provide Ongoing Disclosure.

(a) *Contract/Undertaking.* This section constitutes the City's written undertaking as required by Section (b)(5) of the Rule.

(b) *Financial Statements/Operating Data.* The City agrees to provide or cause to be provided to the MSRB the following annual financial information and operating data for each fiscal year, commencing with the fiscal year in which the Bonds are issued:

1. Annual financial statements, which statements may or may not be audited, showing ending fund balances for the City's water and sewer funds prepared in accordance with the Budgeting Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) and generally of the type included in the official statement for the Bonds under the heading "Historical Operating Results and Debt Service Coverage";
2. Statement of authorized, issued and outstanding Parity Bonds;
3. Number of water utility and sewer utility customers; and
4. Debt service coverage ratios for Parity Bonds.

Items 2-4 shall be required only to the extent that such information is not included in the annual financial statements.

Such annual information and operating data described above shall be so provided on or before the expiration of nine months after the end of the City's fiscal year. The City's current fiscal year ends December 31. The City may adjust such date if the City changes its fiscal year by providing written notice of the change of fiscal year and the new reporting date to the MSRB. In lieu of providing such annual financial information and operating data, the City may cross-reference to other documents available to the public on the MSRB's internet website or filed with the SEC and, if such document is a final official statement within the meaning of the Rule, available from the MSRB or the SEC.

If not provided as part of the annual financial information discussed above, the City shall provide the City's audited annual financial statement prepared in accordance with regulations prescribed by the State Auditor pursuant to RCW 43.09.200 (or any successor statutes), when and if available, to the MSRB.

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

- (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, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds;
- (7) Modifications to the rights of Bond holders, if material;
- (8) Bond calls, if material, and tender offers;
- (9) Defeasances;
- (10) Release, substitution or sale of property securing the repayment of the Bonds, if material;
- (11) Rating changes;
- (12) Bankruptcy, insolvency, receivership or similar event of the City;
- (13) The consummation of a merger, consolidation, or acquisition of 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 to undertake such an action, other than pursuant to its terms, if material;
- (14) Appointment of a successor or additional trustee or the change of name of the trustee, if material;
- (15) Incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect security holders, if material; and
- (16) Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation of the City, any of which reflect financial difficulties.

The term “financial obligation” means a (i) debt obligation; (ii) derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or (iii) guarantee of (i) or (ii). The term “financial obligation” shall not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

Solely for purposes of information, and not intending to modify this undertaking, the City advises that there is no property securing repayment of the Bonds.

(d) *Notification Upon Failure to Provide Financial Data.* In addition to the filing of notices as required by subsection (c) the City agrees to provide or cause to be provided, in a timely manner, to the MSRB, if any, notice of its failure to provide the annual financial information described in subsection (b) above on or prior to the date set forth in subsection (b) above.

(e) *EMMA; Format for Filings with the MSRB.* Until otherwise designated by the MSRB or the SEC, any information or notices submitted to the MSRB in compliance with the Rule are to be submitted through EMMA. All notices, financial information and operating data required by this undertaking to be provided to the MSRB must be in an electronic format as prescribed by the MSRB. All documents provided to the MSRB pursuant to this undertaking must be accompanied by identifying information as prescribed by the MSRB.

(f) *Termination/Modification.* The City's obligations to provide annual financial information and notices of listed events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. This section, or any provision hereof, shall be null and void if the City (1) obtains an opinion of nationally recognized bond counsel to the effect that those portions of the Rule which require this section, or any such provision, are invalid, have been repealed retroactively or otherwise do not apply to the Bonds; and (2) notifies the MSRB, if any, of such opinion and the cancellation of this section. Notwithstanding any other provision of this ordinance, the City may amend this Section 18 in accordance with the provisions of Section 20(b) and any provision of this Section 18 may be waived, with an approving opinion of nationally recognized bond counsel.

In the event of any amendment of or waiver of a provision of this Section 18, the City shall describe such amendment in the next annual report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (I) notice of such change shall be given in the same manner as for a listed event under Subsection (c), and (II) the annual report for the year in which the change is made should present a comparison (in narrative form and also, if practical, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

(g) *Remedies Under This Section.* A Bond owner's or Beneficial Owner's right to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the City's obligations hereunder, 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 under this ordinance.

Section 19. Lost 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 20. Supplements and Amendments.

(a) *Without Consent.* Without prior consent of owners of Parity Bonds, the Council from time to time and at any time may adopt an ordinance or ordinances supplemental hereof, which ordinance or ordinance thereafter shall become a part of this ordinance, for any one or more or all of the following purposes:

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

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

(3) To make amendments permitted under Section 18.

Any such supplemental ordinance of the Council may be adopted without the consent of the owners of any Parity Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) *With Consent.* With the consent of the owners of not less than 65% in aggregate principal amount of the Parity Bonds at the time outstanding, the Council may adopt an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturity of any Parity Bonds, or reduce the rate of interest thereon, or extend the time of payments of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof without the consent of the owner of each Bond so affected; or

(2) Reduce the aforesaid percentage of owners of Bonds required to approve any such supplemental ordinance, without the consent of the owners of all of the Parity Bonds then outstanding.

It shall not be necessary for the consent of the Bondowners under this subsection (b) to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

(c) *Effect of Supplemental Ordinance.* Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the City under this ordinance and all owners of Parity Bonds outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respect to such modification and amendments, and all the terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this ordinance for any and all purposes.

(d) *Notation on Future Parity Bonds.* Parity Bonds executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new bonds so modified as to conform in the opinion of the Council, to any modification of this ordinance contained in any such supplemental ordinance,

may be prepared by the City and delivered without cost to the owners of any affected Parity Bonds then outstanding.


Section 21. 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.

Section 22. Effect of Covenants, Etc. All covenants, obligations and agreements of the City contained in this ordinance shall be deemed to be covenants, obligations and agreements of the City to the full extent authorized by law and permitted by the Constitution of the State of Washington. No covenant, obligation or agreement contained herein shall be deemed to be a covenant, obligation or agreement of any present or future official, member, agent or employee of the City in his or her individual capacity, and neither the members of the Council nor any officer thereof executing the Bond shall be liable personally on the Bond or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, agent or employee of the City shall incur any liability in acting or proceeding or in not acting or proceeding, in good faith in accordance with the terms of this ordinance.

Section 23. Effective Date. This ordinance shall be effective five days from and after its passage and publication in the manner required by law.

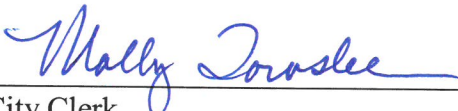
PASSED by the Council of the City of Gig Harbor, Washington at a regular meeting held on the 28th day of May, 2019.

CITY OF GIG HARBOR, WASHINGTON



Mayor

ATTEST:



City Clerk

First Reading: May 13, 2019

Date Adopted: May 28, 2019

Date of Publication: June 6, 2019

Effective Date: June 11, 2019

EXHIBIT A

ESCROW DEPOSIT AGREEMENT

**CITY OF GIG HARBOR, WASHINGTON
WATER AND SEWER REVENUE REFUNDING BONDS, 2019**

THIS ESCROW AGREEMENT, dated as of July ____, 2019 (herein, together with any amendments or supplements hereto, called the “Agreement”) is entered into by and between the CITY OF GIG HARBOR, Washington (herein called the “City”) and U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent (herein, together with any successor in such capacity, called the “Escrow Agent”). The notice addresses of the City and the Escrow Agent are shown on Exhibit A attached hereto and made a part hereof.

WITNESSETH:

WHEREAS, the City has issued and there presently remain outstanding the obligations described in Exhibit B (the “Refunded Bonds”); and

WHEREAS, pursuant to Ordinance No. _____ passed on May 28, 2019 (the “Bond Ordinance”), the City has determined to issue its Water and Sewer Revenue Refunding Bonds, 2019 (the “Bonds”) for the purpose of providing funds to pay the costs of defeasing and/or refunding the Refunded Bonds; and

WHEREAS, the Escrow Agent has reviewed this Agreement and the Bond Ordinance, and is willing to serve as Escrow Agent; and

WHEREAS, _____, of _____, _____, have prepared a verification report which is dated _____, 2019 (the “Verification Report”) relating to the source and use of funds available to accomplish the defeasance and/or refunding of the Refunded Bonds, the investment of such funds and the adequacy of such funds and investments to provide for the payment of the debt service due on the Refunded Bonds; and

WHEREAS, pursuant to the Bond Ordinance, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C; and

WHEREAS, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, the Bonds have been duly authorized to be issued, sold, and delivered for the purpose of obtaining the funds required to provide for the payment of the principal of,

interest on and redemption premium (if any) on the Refunded Bonds when due as shown on Exhibit C; and

WHEREAS, the City desires that, concurrently with the delivery of the Bonds to the purchasers, the proceeds of the Bonds, together with certain other available funds of the City, shall be applied to purchase certain direct obligations of the United States of America hereinafter defined as (the “Escrowed Securities”) for deposit to the credit of the Refunding Account and to establish a beginning cash balance (if needed) in the Refunding Account; and

WHEREAS, simultaneously herewith, the City is entering into a Cost of Issuance Agreement with the Escrow Agent to provide for the payment of costs of issuance relating to the Bonds;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the City and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

Article 1. Definitions

Section 1.1. Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

Escrowed Securities means the noncallable Government Obligations described in Exhibit D, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement.

Government Obligations means direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

Paying Agent means the fiscal agent of the State of Washington, as the paying agent for the Refunded Bonds.

Refunding Account means the fund created by this Agreement to be established, held and administered by the Escrow Agent pursuant to the provisions of this Agreement.

Section 1.2. Other Definitions.

The terms “Agreement,” “City,” “Escrow Agent,” “Bond Ordinance,” “Refunded Bonds,” and “Verification Report,” when they are used in this Agreement, shall have the meanings assigned to them in the recitals to this Agreement.

Section 1.3. Interpretations.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the defeasance and/or refunding of the Refunded Bonds in accordance with applicable law.

Article 2. Deposit of Funds and Escrowed Securities

Section 2.1. Deposits in the Refunding Account.

Concurrently with the sale and delivery of the Bonds the City shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Refunding Account, the funds sufficient to purchase the Escrowed Securities described in Exhibit D, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the City in writing.

Article 3. Creation and Operation of Refunding Account

Section 3.1. Refunding Account.

The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Refunding Account (the “Refunding Account”). The Escrow Agent agrees that upon receipt it will deposit to the credit of the Refunding Account the funds and the Escrowed Securities described in Exhibit D. Such deposit, all proceeds therefrom, and all cash balances on deposit therein (a) shall be the property of the Refunding Account, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Refunding Account shall be transferred to the City, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

Section 3.2. Payment of Principal and Interest.

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances on deposit in the Refunding Account, the amounts required to pay the principal of the Refunded Bonds at their respective redemption dates and interest thereon to such redemption dates in the amounts and at the times shown in Exhibit C.

Section 3.3. Sufficiency of Refunding Account.

The City represents that, based upon the information provided in the Verification Report, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from in the Refunding Account will be at all times sufficient to provide money for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity (or, with respect to any Refunded Bonds that are noncallable, on their maturity date), all as more fully set forth in Exhibit E. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Refunding Account shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2, the City shall timely deposit in the Refunding Account, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Refunding Account or the City's failure to make additional deposits.

Section 3.4. Trust Fund.

The Escrow Agent shall hold at all times the Refunding Account, the Escrowed Securities and all other assets of the Refunding Account, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Refunding Account to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Refunding Account only as set forth herein. The Escrowed Securities and other assets of the Refunding Account shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account shall at all times be maintained on the books of the Escrow Agent. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as an agent under the terms of this Agreement.

Article 4. Limitation on Investments

Section 4.1. Investments.

Except for the initial investment in the Escrowed Securities, and except as provided in Section 4.2, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

Section 4.2. Substitution of Securities.

At the written request of the City, and upon compliance with the conditions hereinafter stated, the Escrow Agent shall utilize cash balances in the Refunding Account, or sell, transfer, otherwise dispose of or request the redemption of the Escrowed Securities and apply the proceeds therefrom to purchase Refunded Bonds or Government Obligations which do not permit the redemption thereof at the option of the obligor. Any such transaction may be effected by the Escrow Agent only if (a) the Escrow Agent shall have received a written opinion from a firm of certified public accountants that such transaction will not cause the amount of money and securities in the Refunding Account to be reduced below an amount sufficient to provide for the full and timely payment of principal of and interest on all of the remaining Refunded Bonds as they become due, taking into account any optional redemption thereof exercised by the City in connection with such transaction; and (b) the Escrow Agent shall have received the unqualified written legal opinion of its bond counsel or tax counsel to the effect that such transaction will not cause the Bonds or Refunded Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

Article 5. Application of Cash Balances

Section 5.1. In General.

Except as provided in Section 2.1, 3.2 and 4.2 hereof, no withdrawals, transfers or reinvestment shall be made of cash balances in the Refunding Account. Cash balances shall be held by the Escrow Agent in United States currency as cash balances as shown on the books and records of the Escrow Agent and, except as provided herein, shall not be reinvested by the Escrow Agent; provided, however, a conversion to currency shall not be required (i) for so long as the Escrow Agent’s internal rate of return does not exceed 20%, or (ii) if the Escrow Agent’s internal rate of return exceeds 20%, the Escrow Agent receives a letter of instructions, accompanied by the opinion of nationally recognized bond counsel, approving the assumed reinvestment of such proceeds at such higher yield.

Article 6. Redemption of Refunded Bonds

Section 6.1. Call for Redemption.

The City hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption dates, as shown in the Verification Report and on Appendices A-1 and A-2 attached hereto.

Section 6.2. Notice of Redemption/Notice of Defeasance.

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds to the Paying Agent for dissemination in accordance with the terms of Ordinance Nos. 1184 and 1193 of the City Council and in substantially the forms attached as and as described in Appendices A and B to the Paying Agent for distribution as described therein. The notice of defeasance shall be given immediately following the execution of this Agreement, and the notice of redemption shall be given in accordance with the ordinances authorizing the Refunded Bonds. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

Article 7. Records and Reports

Section 7.1. Records.

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Refunding Account and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

Section 7.2. Reports.

While this Agreement remains in effect, the Escrow Agent annually shall prepare and send to the City a written report summarizing all transactions relating to the Refunding Account during the preceding year, including, without limitation, credits to the Refunding Account as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Refunding Account for payments on the Refunded Bonds or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Refunding Account as of the end of such period.

Article 8. Concerning the Paying Agent and Escrow Agent

Section 8.1. Representations.

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

Section 8.2. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Refunding Account. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Refunding Account or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the City promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Bonds shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

It is the intention of the parties that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or want of good faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Refunding Account, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the City or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time.

Section 8.3. Successor Escrow Agents.

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as Escrow Agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the City, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the City within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or any state, authorized under such laws to exercise corporate trust powers, having a combined capital and surplus of at least \$100,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the City and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.3 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

Article 9. Miscellaneous

Section 9.1. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A attached hereto. The United States Post Office registered or

certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days' prior notice thereof.

Section 9.2. Termination of Responsibilities.

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the City, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

Section 9.3. Binding Agreement.

This Agreement shall be binding upon the City and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the City, the Escrow Agent and their respective successors and legal representatives.

Section 9.4. Severability.

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

Section 9.5. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

Section 9.6. Time of the Essence.

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

Section 9.7. Notice to S&P.

In the event that this Agreement or any provision thereof is severed, amended or revoked, the City shall provide written notice of such severance, amendment or revocation S&P Global Ratings, 55 Water Street, New York, New York 10041, Attention: Public Finance Rating Desk/Refunded Bonds.

Section 9.8. Amendments.

This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Bonds. No such amendment shall be made without first receiving written confirmation from the rating agencies (if any) that are then rating the Refunded Bonds that such administrative changes will not result in a withdrawal or reduction of its rating then assigned to the Refunded Bonds. If this Agreement is amended, prior written notice and copies of the proposed changes shall be given to the rating agencies which have rated the Refunded Bonds.

EXECUTED as of the date first written above.

CITY OF GIG HARBOR, WASHINGTON

Designated Representative

U.S. BANK NATIONAL ASSOCIATION

Authorized Signer

- Exhibit A - Addresses of the City and the Escrow Agent
- Exhibit B - Descriptions of the Refunded Bonds
- Exhibit C - Schedule of Debt Service on Refunded Bonds
- Exhibit D - Description of Beginning Cash Deposit and Escrowed Securities
- Exhibit E - Refunding Account Cash Flow
- Appendix A-1 - Notice of Redemption for the 2010A Bonds
- Appendix A-2 - Notice of Redemption for the 2010B Bonds
- Appendix B-1 - Notice of Defeasance for the 2010A Bonds
- Appendix B-2 - Notice of Defeasance for the 2010B Bonds

EXHIBIT A
Addresses of the City and the Escrow Agent

City: City of Gig Harbor
3510 Grandview Street
Gig Harbor, WA 98335
Attention: Finance Director

Escrow Agent: U.S. Bank National Association
Global Corporate Trust Services
PD-WA-T7CT
1420 Fifth Avenue, 7th Floor
Seattle, WA 98101
Attention: Vice President

EXHIBIT B
Description of the Defeased and Refunded Bonds ⁽¹⁾
(the “Refunded Bonds”)

City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010
(Taxable Build America Bonds - Direct Payment to Issuer)

Maturity Years (April 1)	Principal Amounts	Interest Rates
[2020	\$ 290,000	4.953%]
2021	300,000	5.103
2022	310,000	5.253
2023	320,000	5.403
2024	335,000	5.553
2025	345,000	5.703
2030*	1,950,000	6.263

* Term Bonds

City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010B
(Taxable Build America Bonds — Direct Payment to Issuer)

Maturity Years (October 1)	Principal Amounts	Interest Rates
[2020	\$ 420,000	4.801%]
2025*	2,340,000	5.551
2030*	2,820,000	6.177

* Term Bonds

⁽¹⁾ Any or all of the 2010A Bonds and the 2010B Bonds as selected by the Designated Representative.

EXHIBIT C
Schedule of Debt Service on Refunded Bonds

<u>Date</u>	<u>Interest</u>	<u>Principal/ Redemption Price</u>	<u>Total</u>
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EXHIBIT D
Escrow Deposit

I. Cash \$_____

II. Other Obligations

<u>Description</u>	<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Total Cost</u>
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EXHIBIT E
Refunding Account Cash Flow

<u>Date</u>	<u>Escrow Requirement</u>	<u>Net Escrow Receipts</u>	<u>Excess Receipts</u>	<u>Cash Balance</u>
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APPENDIX A-1

Notice of Redemption*
City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010
(Taxable Build America Bonds - Direct Payment to Issuer)

NOTICE IS HEREBY GIVEN that the City of Gig Harbor, Washington has called for redemption on April 1, 2020, its then outstanding Water and Sewer Revenue Bonds, 2010 (Taxable Build America Bonds - Direct Payment to Issuer) (the “Bonds”).

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to April 1, 2020. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Ave E.
St. Paul, MN 55107

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on April 1, 2020.

The following Bonds are being redeemed:

Maturity Years (April 1)	Principal Amounts	Interest Rates	CUSIP No.
[2021	\$ 300,000	5.103%	37517HBP4]
[2022	310,000	5.253	37517HBQ2]
[2023	320,000	5.403	37517HBR0]
[2024	335,000	5.553	37517HBS8]
[2025	345,000	5.703	37517HBT6]
[2030*	1,950,000	6.263	37517HBY5]

* Term Bonds

By Order of City of Gig Harbor, Washington

U.S. Bank National Association, as Paying Agent

Dated: _____.

* This notice shall be given not more than 60 nor less than 30 days prior to April 1, 2020 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed to The Depository Trust Company, D.A. Davidson & Co., S&P Global Ratings, and submitted electronically to the Municipal Securities Rulemaking Board.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act") unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

APPENDIX A-2

Notice of Redemption*
City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010B
(Taxable Build America Bonds - Direct Payment to Issuer)

NOTICE IS HEREBY GIVEN that the City of Gig Harbor, Washington has called for redemption on October 1, 2020, its then outstanding Water and Sewer Revenue Bonds, 2010B (Taxable Build America Bonds - Direct Payment to Issuer) (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to October 1, 2020. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

U.S. Bank National Association
Global Corporate Trust Services
111 Fillmore Ave E.
St. Paul, MN 55107

Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on October 1, 2020.

The following Bonds are being redeemed:

Maturity Years (October 1)	Principal Amounts	Interest Rates	CUSIP No.
[2025*	\$ 2,340,000	5.551%	37517HCC2]
[2030*	2,820,000	6.177	37517HCD0]

* Term Bonds

By Order of City of Gig Harbor, Washington

U.S. Bank National Association, as Paying Agent

Dated: _____.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act") unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

* This notice shall be given not more than 60 nor less than 20 days prior to October 1, 2020 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed to The Depository Trust Company, D.A. Davidson & Co., S&P Global Ratings, and submitted electronically to the Municipal Securities Rulemaking Board.

APPENDIX B-1

Notice of Defeasance*
City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010
(Taxable Build America Bonds - Direct Payment to Issuer)

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated _____, 2019, by and between City of Gig Harbor, Washington (the "City") and U.S. Bank National Association (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the respective maturity or redemption dates of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. 1184 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Water and Sewer Revenue Bonds, 2010
(Taxable Build America Bonds - Direct Payment to Issuer)
(Dated March 30, 2010)

<u>Maturity Years (April 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>CUSIP No.</u>	<u>Call Date (100%)</u>
[2020	\$ 290,000	4.953%	37517HBN9]	maturity
[2021	300,000	5.103	37517HBP4]	April 1, 2020
[2022	310,000	5.253	37517HBQ2]	April 1, 2020
[2023	320,000	5.403	37517HBR0]	April 1, 2020
[2024	335,000	5.553	37517HBS8]	April 1, 2020
[2025	345,000	5.703	37517HBT6]	April 1, 2020
[2030*	1,950,000	6.263	37517HBY5]	April 1, 2020

* Term Bonds

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the Defeased Bonds described above, which certificate is in the principal amount of \$_____.

_____, 20__

U.S. Bank National Association, as Escrow Agent

* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company; U.S. Bank National Association, as Fiscal Agent; D.A. Davidson & Co.; S&P Global Ratings, and sent electronically to the Municipal Securities Rulemaking Board.

APPENDIX B-2

Notice of Defeasance*
City of Gig Harbor, Washington
Water and Sewer Revenue Bonds, 2010B
(Taxable Build America Bonds - Direct Payment to Issuer)

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated _____, 2019, by and between City of Gig Harbor, Washington (the "City") and U.S. Bank National Association (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the respective maturity or redemption dates of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. 1193 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

Water and Sewer Revenue Bonds, 2010B
(Taxable Build America Bonds - Direct Payment to Issuer)
(Dated August 10, 2010)

<u>Maturity Years (October 1)</u>	<u>Principal Amounts</u>	<u>Interest Rates</u>	<u>CUSIP No.</u>	<u>Call Date (100%)</u>
[2020	\$ 420,000	4.801%	37517HCB4]	maturity
[2025*	2,340,000	5.551%	37517HCC2]	October 1, 2020
[2030*	2,820,000	6.177	37517HCD0]	October 1, 2020

* Term Bonds

Information for Individual Registered Owner

The addressee of this notice is the registered owner of Bond Certificate No. _____ of the Defeased Bonds described above, which certificate is in the principal amount of \$_____.

_____, 20__

U.S. Bank National Association, as Escrow Agent

* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company; U.S. Bank National Association, as Fiscal Agent; D.A. Davidson & Co.; S&P Global Ratings, and sent electronically to the Municipal Securities Rulemaking Board.

EXHIBIT B

COSTS OF ISSUANCE AGREEMENT

**CITY OF GIG HARBOR, WASHINGTON
WATER AND SEWER REVENUE REFUNDING BONDS, 2019**

THIS COSTS OF ISSUANCE AGREEMENT, dated as of July ___, 2019 (herein, together with any amendments or supplements hereto, called the “Agreement”), is entered into by and between the CITY OF GIG HARBOR, WASHINGTON, (herein called the “City”) and U.S. BANK NATIONAL ASSOCIATION, as Escrow Agent (herein, together with any successor in such capacity, called the “Escrow Agent”).

WITNESSETH:

WHEREAS, pursuant to Ordinance No. ___ passed on May 28, 2019 (the “Bond Ordinance”), the City has determined to issue its Water and Sewer Revenue Refunding Bonds, 2019 (the “Bonds”) for the purpose of providing funds to pay the costs of refunding certain outstanding bonds of the City; and

WHEREAS, simultaneously herewith, the City is entering into an Escrow Deposit Agreement, dated _____, 2019 under which the Escrow Agent will hold invested proceeds of the Bonds in order to pay and redeem the refunded bonds under the terms set forth therein; and

WHEREAS, certain proceeds of the Bonds will be delivered to the Escrow Agent on the date of issuance of the Bonds that are required to be disbursed to pay costs of issuance of the Bonds; and

WHEREAS, the Escrow Agent has agreed, without additional compensation to disburse the Bond proceeds received to pay costs of issuance under the terms of this Agreement;

Section 1. Deposit in the Costs of Issuance Fund.

The Escrow Agent has created on its books a special trust fund and escrow fund to be known as the Costs of Issuance Fund. The Escrow Agent agrees that upon receipt it will deposit to the credit of the Costs of Issuance Fund the sum of \$_____ to pay those costs of issuance set forth on Exhibit A. Such deposit, all proceeds therefrom, and all cash balances on deposit therein shall be the property of the Costs of Issuance Fund to pay those costs of issuance set forth on Exhibit A upon receipt of invoices. If any of the \$_____ deposit allocated for costs of issuance for the Bonds remains unspent on _____, 2019, the Escrow Agent shall transfer such unspent amount to the City, and this Agreement shall be deemed fully performed and terminated.

Section 2. Investments.

The Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder.

Section 3. Limitation on Liability.

The liability of the Escrow Agent to transfer funds for the payment of the costs of issuance identified herein shall be limited to the proceeds of the Bonds delivered to the Escrow Agent.

Section 4. Compensation.

The City shall pay to the Escrow Agent fees for performing the services hereunder and under the Escrow Agreement for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement and the Escrow Agreement pursuant to the terms of the Fee Schedule attached as Exhibit B. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against funds held under the Escrow Agreement for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

Section 5. Notice.

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A to the Escrow Agreement.

Section 6. Washington Law Governs.

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

EXECUTED as of the date first written above.

CITY OF GIG HARBOR, WASHINGTON

Director of Finance

U.S. BANK NATIONAL ASSOCIATION

Authorized Signer

Exhibit A - Costs of Issuance Schedule
Exhibit B - Fee Schedule

EXHIBIT A

Costs of Issuance

Escrow Agent Fee (U.S. Bank National Association)	\$
Bond & Disclosure Counsel Fee (K&L Gates LLP).....	
Official Statement Printing/Distribution	_____
Rating Agency Fees (S&P)	_____
Verification Agent Fee (_____).	_____
Total:	\$ <u> </u>

EXHIBIT B

Fee Schedule

[ATTACH SCHEDULE]

CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. ____ of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 28th day of May, 2019.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of May, 2019.

City Clerk