

CITY OF GIG HARBOR, WASHINGTON

WATER AND SEWER REVENUE BONDS

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ORDINANCE NO. 1357

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$7,000,000 TO PROVIDE FINANCING FOR CERTAIN IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY; 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 FEBRUARY 27, 2017

PREPARED BY:

K&L GATES LLP

CITY OF GIG HARBOR, WASHINGTON  
ORDINANCE NO. \_\_\_\_\_  
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\* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

ORDINANCE NO. 1357

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GIG HARBOR, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF WATER AND SEWER REVENUE BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$7,000,000 TO PROVIDE FINANCING FOR CERTAIN IMPROVEMENTS TO THE WATER AND SEWER SYSTEM OF THE CITY; 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.

WHEREAS, the City of Gig Harbor, Washington (the “City”) needs to make certain improvements (herein further defined as the “Projects”) to its combined water and sewerage system (herein further defined as the “System”); and

WHEREAS, it is in the best interests of the citizens of the City to finance the Projects by means of the revenue bonds authorized herein (further defined herein as the “Bonds”); 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 Amt.</u>	<u>Currently Outstanding (2/1/2017)</u>	<u>Final Maturity Dates</u>
2010A	1184	03/30/2010	\$ 6,035,000	\$ 4,675,000	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	1,190,000	10/01/2019

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

WHEREAS, Ordinance Nos. 1184 and 1193, which authorized the issuance of the Outstanding Parity Bonds (together, the “Outstanding Parity Bond Ordinances”) authorize the City to issue revenue bonds in the future upon compliance with the terms and conditions set forth in the Outstanding Parity Bond Ordinances; and

WHEREAS, it appears to the City Council (the “Council”) that such conditions can be met and that it is in the best interests of the City and its inhabitants that the Bonds be issued on a parity with the Outstanding Parity Bonds; and

WHEREAS, this Council has determined to delegate to certain City officials the authority to approve the final principal amounts, interest rates, 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:

*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 Bonds, [year of issue], issued pursuant to this ordinance.

**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 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](http://www.emma.msrb.org).

***Federal Tax Certificate*** means the certificate of that name executed and delivered by the City at the time of issuance and delivery of the Bonds.

***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 Bonds** means the 2010A Bonds, the 2010B Bonds and the 2010C Bonds.

**Outstanding Parity Bond Ordinances** means Ordinance No. 1184 approved by the Council on March 8, 2010 and Ordinance No. 1193 approved by the Council on July 26, 2010.

**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.

**Projects** mean capital improvements to the water and sewer system of the City as further described in Section 3 of this ordinance.

**Project Account** means the fund established in Section 17 of this ordinance.

**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.



**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 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 are no longer outstanding, such lesser amount as shall be set forth in the ordinance authorizing the issuance 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.

**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 ordinance authorizing the issuance thereof or the related bond purchase agreement.

**Treasurer** means the Finance Director of the City.

**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 Ordinance No. 1184.

**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 Ordinance No. 1193.

**2010C Bonds** means the City's outstanding Water and Sewer Revenue Bonds, 2010C (Tax-Exempt), issued under date of August 10, 2010, pursuant to Ordinance No. 1193.

**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 each of the Outstanding Parity Bond Ordinances, that:

(a) The Bonds are being issued for the purpose of providing funds to acquire, construct, reconstruct, install, or replace equipment, facilities, additions, betterments, or other capital improvements to the System for which it is authorized by law to issue revenue bonds;

(b) There is no deficiency in the Bond Fund or the Reserve Account;

(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 the Outstanding Parity Bond Ordinances; and

(d) there will have been filed a certificate of an independent professional engineer, certified public accountant or Designated Representative demonstrating fulfillment of Section 11(a)(5) of the Outstanding Parity Bond Ordinances.

The conditions contained in Section 11 of 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 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 Projects; and Authorization of Bonds and Bond Details.

(a) *Authorization of Projects.* The Council hereby finds that the public interest, welfare and convenience require capital improvements to the System of the City. The Bonds are being issued to provide funds to pay the costs of acquiring, constructing and installing certain additions and betterments to and improvements of the City's water and sewer system. The specific capital improvements include construction of Well No. 11, including purchase and installation of a deep submersible well pump and construction of the associated enclosed pump well house facility and associated water piping and connection to the City's water distribution system, and the Replacement Sewage Lift Station No. 4B, including replacement of the below ground existing pump station with a new above ground pump station, and the replacement of the existing public

bathrooms, along with construction of a new public viewing platform to be located as part of the roof structure of the new pump station. The City may modify the foregoing capital improvements, including, e.g., deletion or addition of capital projects, depending on changes in circumstances or costs in excess of estimated costs or cost savings, and all of the foregoing are herein referred to as the “Projects.”

(b) *Authorization of Bonds and Bond Details.* For the purpose of paying the costs of the Projects, funding the Reserve Account Requirement and paying costs of issuance, the City shall now issue and sell its water and sewer revenue bonds in the aggregate principal amount of not to exceed \$7,000,000 (the “Bonds”). The Bonds shall be designated as the “City of Gig Harbor, Washington, Water and Sewer Revenue Bonds, [year of issue];” 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 numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall bear interest from their date payable commencing on the First Interest Payment Date, and semiannually thereafter on the payment dates and shall mature on dates in the years and principal amounts set forth and approved in the Bond Purchase Agreement executed by the Designated Representative pursuant to Section 16 of this ordinance. The Bonds shall bear interest at the rates set forth in the Bond Purchase Agreement executed 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 approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agents. The City shall cause a bond register to be maintained by the Bond Registrar. So long as any Bonds remain outstanding, the Bond Registrar shall make all necessary provisions to permit the exchange or registration or transfer of Bonds at its principal corporate trust office. The Bond Registrar may be removed at any time at the option of the City upon prior notice to the Bond Registrar and a successor Bond Registrar appointed by the City. No resignation or removal of the Bond Registrar shall be effective until a successor shall have been appointed and until the successor Bond Registrar shall have accepted the duties of the Bond Registrar hereunder. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance. The Bond Registrar shall be responsible for its representations contained in the Certificate of Authentication of the Bonds.

(b) *Registered Ownership.* The City and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 18 of this ordinance), and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 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/Letters of Representations.* The Bonds initially shall be held in fully immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the City has executed and delivered to DTC the 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 the participants of any successor depository or those for who any such successor acts as nominee) 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 of the Designated Representative, issue a single new Bond for each maturity then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the 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 that such Beneficial Owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The 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 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 it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

(f) *Bond Registrar's Ownership of Bonds.* The Bond Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Bond Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or

directors to act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

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

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest thereon shall be made as provided to the parties entitled to receive payment as of each Record Date 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 as of the Record Date, or upon the written request of a Registered Owner of more than \$1,000,000 of Bonds (received by the Bond Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Bond Registrar by wire transfer to the account within the United States designated by the Registered Owner. 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.

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

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.

(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 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 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 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 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 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, it will make a deposit into the Reserve Account, from Bond proceeds or other funds on hand legally available for such purpose an amount sufficient to meet the Reserve Account Requirement.

The City hereby further covenants and agrees that in the event it issues any Future Parity Bonds that it will 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 that are direct or indirect 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.

(b) *Designation under Section 265(b) of the Code.* The City hereby designates the Bonds as “qualified tax-exempt obligations” for investment by financial institutions under Section 265(b) of the Code. The City does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during 2017 (or 2018 if the Bonds are issued in 2018) (excluding obligations permitted by the Code to be excluded for purposes of the City’s qualification as a qualified small issuer).

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) *Rates 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 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 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 Outstanding Parity Bonds Remain Outstanding.**

The City hereby covenants and agrees with the owners of each of the Outstanding Parity Bonds for as long as any of the same 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 Outstanding Parity Bonds Are No Longer Outstanding.**

(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 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 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 purposes of paying the costs of capital improvements to 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 bonds of this issue have been designated by the City as "qualified tax-exempt obligations" 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 account 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 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. Sale of Bonds; Delegation of Authority.

(a) *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 been advised by the Underwriter that market conditions are fluctuating and, as a result, the most favorable market conditions may occur on a day other than a regular meeting date of the Council. 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 principal amount of the Bonds does not exceed \$7,000,000, (ii) the true interest cost of the Bonds is not greater than 4.5%, and (iii) the Bonds are subject to optional redemption no later than 10.5 years from the date of issue.

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 February 27, 2018. If a Bond Purchase Agreement for the Bonds has not been executed by February 27, 2018, 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.

(b) *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.

(c) *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. Disposition of Bond Proceeds. From the proceeds of the Bonds, a sum sufficient to meet the Reserve Account Requirement, together with other legally available funds of the City, shall be deposited in the Reserve Account. The Treasurer shall establish an account within the Revenue Fund to be designated as the "Project Account" (the "Project Account"). The balance of the proceeds of sale of the Bonds shall be deposited in the Project Account and shall be expended solely to pay the cost of issuing and selling the Bonds and, together with other available moneys of the City, shall be used to undertake the Projects. Money in the Project Account shall be invested by the Treasurer, pending disbursement, in any legal investment for City funds.

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 notice of the following listed events not in excess of ten business days after the occurrence of the event:

- Principal and interest payment delinquencies;
- Non-payment related defaults, if material;
- Unscheduled draws on debt service reserves reflecting financial difficulties;
- Unscheduled draws on credit enhancements reflecting financial difficulties;
- Substitution of credit or liquidity providers, or their failure to perform;
- Adverse tax opinions, 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;
- Modifications to the rights of Bondholders, if material;
- Bond calls, if material, and tender offers;
- Defeasances;
- Release, substitution, or sale of property securing repayment of the Bonds, if material;
- Rating changes;



- Bankruptcy, insolvency, receivership or similar event of the City;
  - The consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- Appointment of a successor or additional trustee or the change of name of a trustee, if material.

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.* 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 27<sup>th</sup> day of February, 2017.

CITY OF GIG HARBOR, WASHINGTON

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

First Reading: February 13, 2017

Date Adopted: February 27, 2017

Date of Publication: March 2, 2017

Effective Date: March 7, 2017

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. 1357 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 27<sup>th</sup> day of February, 2017.

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 27<sup>th</sup> day of February, 2017.

  
\_\_\_\_\_  
City Clerk