



Legislation Text

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**CITY OF SEATTLE**

**ORDINANCE \_\_\_\_\_**

**COUNCIL BILL \_\_\_\_\_**

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

WHEREAS, The City of Seattle (the “City”) owns, maintains and operates a system of sanitary sewerage and storm and surface water drainage as part of Seattle Public Utilities (the “Drainage and Wastewater System”), which Drainage and Wastewater System has from time to time required various additions, improvements and extensions; and

WHEREAS, the City needs to acquire and construct certain additions and betterments to and extensions of the Drainage and Wastewater System as set forth in this ordinance (the “Plan of Additions”); and

WHEREAS, the City previously issued its drainage and wastewater revenue bonds described in Exhibit A (the “Outstanding Parity Bonds”) and pursuant to the bond legislation for each such issue of Outstanding Parity Bonds permitted, upon satisfaction of certain conditions (the “Parity Conditions”), the future issuance of additional bonds having a charge and lien on the net revenue of the Drainage and Wastewater System on a parity of lien with those Outstanding Parity Bonds; and

WHEREAS, pursuant to the Omnibus Refunding Bond Ordinance (defined below), the City has provided for the refunding of certain Parity Bonds designated as Refundable Bonds, and the City has determined to

amend the Omnibus Refunding Bond Ordinance to make certain clarifications to conform to the provisions of this ordinance; and

WHEREAS, the City has determined that it is in the best interest of the City to authorize, subject to the provisions of this ordinance, the issuance and sale of drainage and wastewater revenue bonds as Parity Bonds to pay part of the cost of carrying out the Plan of Additions, to provide for the reserve requirement, and to pay the costs of issuance of those bonds; NOW, THEREFORE,

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

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

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

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

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

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

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

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

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

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

(ii) **Interest on Variable Interest Rate Bonds.** The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate that is 90% of the average RBI during the four calendar quarters preceding the quarter in which the calculation is made.

(iii) **Interest on Parity Bonds With Respect to Which a Payment Agreement is in Force.** Debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects produced by the following: (A) Parity Bonds that

would, but for a Payment Agreement, be treated as obligations bearing interest at a Variable Interest Rate instead shall be treated as obligations bearing interest at a fixed interest rate, and (B) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a fixed interest rate instead shall be treated as obligations bearing interest at a Variable Interest Rate. Accordingly, the amount of interest deemed to be payable on any Parity Bonds with respect to which a Payment Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts. For the purposes of calculating as nearly as practicable Payment Agreement Receipts and Payment Agreement Payments under a Payment Agreement that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the fixed rate used in calculating Payment Agreement Payments will be equal to 105% of the fixed rate specified by the Payment Agreement and that the pricing mechanism or index specified by the Payment Agreement is the same as the pricing mechanism or index specified by the Parity Bonds. Notwithstanding the other provisions of this subparagraph, the City shall not be required to (but may in its discretion) take into account in determining Annual Debt Service the effects of any Payment Agreement that has a term of ten years or less.

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

(A) **City Obligated to Make Payments Based on Fixed Rate.** If the City is

obligated to make Payment Agreement Payments based on a fixed rate and the Qualified Counterparty is obligated to make payments based on a variable rate index, that payments by the City will be based on the assumed fixed payor rate, and that payments by the Qualified Counterparty will be based on a rate equal to the average rate determined by the variable rate index specified by the Parity Payment Agreement during the four calendar quarters preceding the quarter in which the calculation is made, and

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

(v) **Balloon Bonds.** *Upon the redemption or defeasance of all of the Outstanding Parity Bonds identified in Exhibit A, the following shall become effective: For purposes of calculating debt service on any Balloon Bonds, it shall be assumed that the principal of those Balloon Bonds, together with interest thereon at a rate equal to the assumed RBI-based rate, will be amortized in equal annual installments over a term of 30 years.*

**“Authorized Denomination”** means \$5,000 or any integral multiple thereof within a maturity of a Series, or such other minimum denomination as may be specified in the Bond Sale Terms for a Series of the Bonds.

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

**“Balloon Bonds”** means any series of Parity Bonds designated as Balloon Bonds, in accordance with the applicable Parity Bond Legislation.

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

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

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

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

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

“**Bond Registrar**” means the Fiscal Agent (unless the Director of Finance provides for a different bond registrar with respect to a particular Series) or any successor bond registrar selected in accordance with the Registration Ordinance.

“**Bond Resolution**” means a resolution of the City Council relating to the issuance and sale of the Bonds authorized pursuant to this ordinance.

“**Bond Sale Terms**” means the terms and conditions for the sale of a Series of the Bonds approved by the Director of Finance consistent with the parameters set forth in Section 5, including the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms, conditions or covenants.

“**Bonds**” means the Drainage and Wastewater System revenue bonds issued pursuant to this ordinance.

“**Capital Appreciation Bond**” means any Parity Bond, all or a portion of the interest on which is compounded and accumulated at the rates or in the manner, and on the dates, set forth in the applicable Parity Bond Legislation and is payable only upon redemption or on the maturity date of such Parity Bond. A Parity

Bond that is issued as a Capital Appreciation Bond, but which later converts to an obligation on which interest is paid periodically, shall be a Capital Appreciation Bond until the conversion date and thereafter shall no longer be a Capital Appreciation Bond, but shall be treated as having a principal amount equal to its Accreted Value on the conversion date.

“**CIP**” means those portions of the City’s “2017-2022 Capital Improvement Program” relating to the Drainage and Wastewater System, adopted by the City in Ordinance 125207, together with any previously adopted Capital Improvement Program of the City. For purposes of this ordinance, the CIP includes all amendments, updates, supplements or replacements that may be adopted from time to time by ordinance.

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

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

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

“**Construction Account**” means the Drainage and Wastewater Construction Account, 2017, created in the Drainage and Wastewater Fund by this ordinance.

“**Contract Resource Obligation**” means an obligation of the City, which is designated as a Contract Resource Obligation and is entered into in accordance with Section 20.

“**Coverage Requirement**” means Adjusted Net Revenue equal to at least 1.25 times Adjusted Annual Debt Service on all Parity Bonds then outstanding.

“**Covered Parity Bonds**” means all Outstanding Parity Bonds, each Series of the Bonds, and each series of Future Parity Bonds, unless in the Bond Sale Terms or other contract for the sale of any series of the Bonds or of Future Parity Bonds, the City elects that, *from and after the redemption or defeasance of all Outstanding Parity Bonds identified in Exhibit A*, such series shall not be treated as a series of Covered Parity Bonds and shall not be secured by the amounts in the Reserve Subaccount.

“**DTC**” means The Depository Trust Company, New York, New York.

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

“**Drainage and Wastewater Fund**” means the fund created by Ordinance 84390 and later renamed by Ordinance 114155, into which is paid the Gross Revenue of the Drainage and Wastewater System.

“**Drainage and Wastewater System**” means the drainage and wastewater system of the City, including the sanitary sewerage and storm and surface water drainage systems, as it now exists (except properties, interests, and rights under the jurisdiction of the City’s Parks and Recreation Department, Seattle Center Department, Seattle Public Utilities Water System, City Light Department and Fleets and Facilities Department), and all additions thereto and betterments and extensions thereof at any time made, together with any utility systems of the City hereafter combined with the Drainage and Wastewater System. The Drainage and Wastewater System shall not include any separate utility system that may be created, acquired or constructed by the City as provided in Section 19.

“**Event of Default**” shall have the meaning assigned to that term in Section 25(a).

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

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

“**Future Parity Bonds**” means, with reference to any Series, all revenue bonds and obligations of the Drainage and Wastewater System (other than that Series and any other Parity Bonds then outstanding) issued or entered into after the Issue Date of such Series, the payment of which constitutes a charge and lien on Net Revenue equal in rank with the charge and lien upon such revenue required to be paid into the Parity Bond



Account in accordance with Section 15. Future Parity Bonds may include Parity Payment Agreements and any other obligations issued in compliance with Section 17.

“**Government Obligations**” unless otherwise defined in the Bond Sale Terms for a particular Series of the Bonds authorized hereunder, has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

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

constructed by the City pursuant to Section 19.

**“Independent Utility Consultant”** means an independent person or firm having a favorable reputation for skill and experience with drainage and wastewater systems of comparable size and character to the Drainage and Wastewater System in such areas as are relevant to the purpose for which they were retained.

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

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

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

**“MSRB”** means the Municipal Securities Rulemaking Board.

**“Net Revenue”** means, for any period, Gross Revenue less Operating and Maintenance Expense.

**“Omnibus Refunding Bond Ordinance”** means Ordinance 124338 (which amended and restated Ordinance 121938, as previously amended by Ordinance 122209 and Ordinance 122637), as amended by Ordinance 124914 and by Section 26 of this ordinance, and as it may be amended from time to time in the future.

**“Operating and Maintenance Expense”** means all expenses incurred by the City in causing the Drainage and Wastewater System to be operated and maintained in good repair, working order and condition, including without limitation: (a) deposits, premiums, assessments or other payments for insurance, if any, on the Drainage and Wastewater System; (b) payments into pension funds; (c) State-imposed taxes; (d) amounts due under Contract Resource Obligations (but only at the times described in Section 20); (e) payments made to another person or entity for treatment or disposal of sewage or other commodity or service; and (f) payments

with respect to any other expenses of the Drainage and Wastewater System that are properly treated as Operating and Maintenance Expense under generally accepted accounting principles applicable to municipal corporations, including payments (other than payments out of proceeds of Parity Bonds or other obligations not issued to pay current expenses of the Drainage and Wastewater System) into reasonable reserves for items of operating or maintenance expense the payment of which is not immediately required. Operating and Maintenance Expense does not include: depreciation, amortization or other similar recognitions of non-cash expense items made for accounting purposes only; taxes levied or imposed by the City, or payments in lieu of City taxes; payments of claims or judgments; or capital additions or capital replacements of the Drainage and Wastewater System.

**“Outstanding Parity Bonds”** means those outstanding Parity Bonds identified in Exhibit A.

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

**“Parity Bond Account”** means the Drainage and Wastewater Revenue Bond Account, 1990, created by Ordinance 115098 in the Drainage and Wastewater Fund for the purpose of paying and securing the principal of and interest on Parity Bonds.

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

**“Parity Bonds”** means the Outstanding Parity Bonds, each Series of the Bonds, and any outstanding Future Parity Bonds. Parity Bonds may include Parity Payment Agreements in accordance with Section 17.

**“Parity Conditions”** means, as of the Issue Date of any Series of the Bonds, the conditions for issuing Future Parity Bonds, as set forth in the Parity Bond Legislation relating to those Parity Bonds that are then outstanding.

**“Parity Payment Agreement”** means a Payment Agreement under which the City’s payment obligations are expressly stated to constitute a charge and lien on Net Revenue equal in rank with the charge

and lien upon such revenue required to be paid into the Parity Bond Account to pay interest on Parity Bonds.

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

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

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

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

**“Plan of Additions”** means the CIP, as it may be modified from time to time. The Plan of Additions includes (a) the purchase and installation of all materials, supplies, appliances, equipment and facilities; (b) the acquisition of all permits, franchises, property and property rights, and other capital assets; and (c) all engineering, consulting and other professional services and studies (whether performed by the City or by other public or private entities), each as necessary or convenient to carry out the Plan of Additions. The Plan of Additions includes all amendments, updates, supplements or replacements to the CIP, all of which automatically shall constitute amendments to the Plan of Additions. The Plan of Additions also may be modified to include other improvements, without amending the CIP if the City determines by ordinance that those amendments or other improvements constitute a system or plan of additions to or betterments or

extensions of the Drainage and Wastewater System.

**“Principal and Interest Subaccount”** means the subaccount of that name created in the Parity Bond Account by Ordinance 115098 for the payment of the principal of and interest on Parity Bonds.

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

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

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

**“Qualified Letter of Credit”** means any letter of credit, standby bond purchase agreement or similar instrument issued by a financial institution for the account of the City on behalf of the Beneficial Owner of any Parity Bond, which institution maintains an office, agency or branch in the United States and, as of the time of issuance of such letter of credit, is rated in one of the two highest rating categories by at least two nationally recognized rating agencies.

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

**“Rate Stabilization Account”** means the account of that name previously established by Section 26 of Ordinance 118974.

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

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

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

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

“**Reserve Requirement**” means the least of (a) Maximum Annual Debt Service on all Parity Bonds outstanding at the time of calculation, (b) 1.25 times Average Annual Debt Service on all Parity Bonds outstanding at the time of calculation, or (c) 10% of the proceeds of each series of Parity Bonds then outstanding, as of the delivery of each such series. *From and after the defeasance or redemption of all Outstanding Parity Bonds identified in Exhibit A, the Reserve Requirement shall mean the least of (a) Maximum Annual Debt Service on all Covered Parity Bonds outstanding at the time of calculation, or (b) 1.25 times Average Annual Debt Service on all Covered Parity Bonds outstanding at the time of calculation. In no event shall the Reserve Requirement exceed 10% of the proceeds of each series of Covered Parity Bonds then outstanding, determined as of the Issue Date of each such series.*

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

**“Reserve Subaccount”** means the subaccount of that name created in the Parity Bond Account by Ordinance 115098 for the purpose of securing the payment of the principal of and interest on Parity Bonds.

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

**“SEC”** means the United States Securities and Exchange Commission.

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

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

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

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

**“State”** means the State of Washington.

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

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

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

**“Tax-Exempt Bond”** means any Bond, the interest on which is intended, as of the Issue Date, to be excludable from gross income for federal income tax purposes.

“**Taxable Bond**” means any Parity Bond, the interest on which is not intended, as of the Issue Date, to be excludable from gross income for federal income tax purposes.

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

“**ULID**” means a utility local improvement district of the City created for the acquisition or construction of additions to and betterments and extensions of the Drainage and Wastewater System.

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

“**Undertaking**” means each undertaking to provide continuing disclosure entered into pursuant to Section 23, in substantially the form attached as Exhibit B.

“**Valuation Date**” means, with respect to any Capital Appreciation Bond, the date or dates selected pursuant to the relevant Parity Bond Legislation on which specific Accreted Values are assigned to that Capital Appreciation Bond.

“**Variable Interest Rate**” means any variable interest rate or rates to be borne by any Parity Bonds. The method of computing such a variable interest rate shall be set in accordance with the applicable Parity Bond Legislation, which shall specify either (a) the particular period or periods of time or manner of determining such period or periods of time for which each value of such variable interest rate shall remain in effect or (b) the time or times upon which any change in such variable interest rate shall become effective.

“**Variable Interest Rate Bond**” means, for any period of time, any Parity Bond that bears a Variable Interest Rate during that period, except that a Parity Bond shall not be treated as a Variable Interest Rate Bond if the net economic effect of interest rates on a particular Parity Bond of a series and interest rates on other



Parity Bonds of the same series, as set forth in the applicable Parity Bond Legislation, or the net economic effect of a Payment Agreement with respect to a particular Parity Bond, in either case is to produce obligations that bear interest at a fixed interest rate; and a Parity Bond with respect to which a Payment Agreement is in force shall be treated as a Variable Interest Rate Bond if the net economic effect of the Payment Agreement is to produce an obligation that bears interest at a Variable Interest Rate.

Section 2. **Adoption of Plan of Additions.** The City specifies, adopts and orders the Plan of Additions to be carried out as generally provided for in the documents comprising the Plan of Additions. The estimated cost of the Plan of Additions, as near as may be determined, is declared to be \$1,031,866,000 of which approximately \$186,000,000 is expected to be financed from the proceeds of the Bonds and investment earnings thereon.

Section 3. **Authorization of Bonds.** The City is authorized to borrow money and issue Drainage and Wastewater System revenue bonds, payable from the sources described in Section 13, in the maximum principal amount stated in Section 5 to (a) pay part of the cost of carrying out the Plan of Additions; (b) provide for meeting the Reserve Requirement; (c) capitalize interest on, if necessary, and pay the costs of issuance of the Bonds; and (d) for other Drainage and Wastewater System purposes approved by ordinance. The Bonds may be issued in one or more Series and may be combined with other Drainage and Wastewater System revenue bonds (including refunding bonds) authorized separately. The Bonds shall be designated Drainage and Wastewater System Revenue Bonds and shall be numbered separately and shall have any name, year and series or other label as deemed necessary or appropriate by the Director of Finance.

Section 4. **Manner of Sale of Bonds.** The Director of Finance may provide for the sale of each Series by public sale, negotiated sale, limited offering, or private placement. In the case of a competitive public sale, the Director of Finance shall award the sale to the Purchaser submitting the bid that provides the lowest true interest cost to the City consistent with the bid parameters set forth in Section 5. In any other manner of sale, the Purchaser shall be chosen through a selection process acceptable to the Director of Finance. The Director of

Finance is authorized to specify a date and time of sale and delivery of each Series; in the case of a competitive sale, to give an official notice of sale including bid parameters and other bid requirements, and provide for the use of an electronic bidding mechanism; and to specify other matters in his or her determination necessary, appropriate, or desirable in order to carry out the sale of each Series. Each Series must be sold on Bond Sale Terms in accordance with Section 5.

Section 5. **Bond Sale Terms; Bond Resolution.** The Director of Finance is appointed to serve as the City's designated representative in connection with the issuance and sale of the Bonds in accordance with RCW 39.46.040(2) and this ordinance. The Director of Finance is authorized to accept, on behalf of the City, an offer to purchase one or more Series of the Bonds on Bond Sale Terms consistent with the parameters set forth in this section. Such acceptance shall be contingent upon consistency with the parameters set forth below and adoption of a Bond Resolution approving such Bond Sale Terms. Once adopted, such Bond Resolution shall be deemed a part of this ordinance as if set forth herein.

(a) **Maximum Principal Amount.** The Bonds may be issued in one or more Series and shall not exceed the aggregate principal amount of \$205,000,000.

(b) **Date or Dates.** Each Bond shall be dated its Issue Date, as determined by the Director of Finance, which Issue Date may not be later than December 31, 2019.

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

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

Finance.

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

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

(i) **Optional Redemption.** Any Bond may be designated as having any or all of the following optional redemption provisions: (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the redemption prices set forth in the Bond Sale Terms; (B) subject to optional redemption upon the occurrence of certain extraordinary events; or (C) not subject to redemption prior to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

(ii) **Mandatory Redemption.** Any Bond may be designated as subject to mandatory redemption prior to its maturity on the dates and in Sinking Fund Requirements consistent with Section 8(b). Any Bond may be designated as subject to extraordinary mandatory redemption on the dates and in Sinking Fund Requirements upon the occurrence of an extraordinary event.

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

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

(i) As of the Issue Date of each Series, the average expected life of the capital facilities to be financed with the proceeds (or allocable share of proceeds) of that Series must exceed the weighted average maturity of the Series (or share thereof) allocated to financing those capital facilities.

(ii) As of the Issue Date of each Series, the Director of Finance must determine that the Parity Conditions have been met or satisfied, so that such Series may be issued as Parity Bonds.

(iii) The City Council hereby finds that, in creating the Parity Bond Account and in fixing the amounts to be paid into it in accordance with this ordinance and the parameters for the Bond Sale Terms set

forth herein, the City Council has had due regard for the cost of maintenance and operation of the Drainage and Wastewater System, and is not setting aside into the Parity Bond Account a greater amount than in the judgment of the City Council, based on the rates to be established from time to time consistent with Section 16(b), will be available over and above such cost of maintenance and operation.

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

(v) The Bond Sale Terms must establish whether the Series is to be treated as Covered Parity Bonds and must establish the method of providing for the Reserve Requirement, consistent with Section 15(a) (ii).

(vi) Any Series may be designated or qualified as Tax-Exempt Bonds, Taxable Bonds, or Tax Credit Subsidy Bonds, and may include such additional terms and covenants relating to federal tax matters as the Director of Finance deems necessary or appropriate, consistent with Section 22.

Section 6. **Bond Registrar; Registration and Transfer of Bonds.**

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

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

The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or

exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and the Registration Ordinance.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's certificate of authentication on the Bonds. The Bond Registrar may become an Owner of Bonds with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Owners.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any Authorized Denomination of an equal aggregate principal amount and of the same Series, interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the period between the Record Date and the corresponding interest payment or redemption date.

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

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

Upon the resignation of a Securities Depository from its functions as depository, or upon a determination by the Director of Finance to discontinue utilizing the then-current Securities Depository, the Director of Finance may appoint a substitute Securities Depository. If the Securities Depository resigns from its functions as depository and no substitute Securities Depository can be obtained, or if the Director of Finance determines not to utilize a Securities Depository, then the Bonds shall no longer be held in book-entry form and ownership may be transferred only as provided herein.

Nothing herein shall prevent the Bond Sale Terms from providing that a Series of the Bonds shall be issued in certificated form without utilizing a Securities Depository, and that the Bonds of such Series shall be registered as of their Issue Date in the names of the Owners thereof, in which case ownership may be transferred only as provided herein.

(d) **Lost or Stolen Bonds.** In case any Bond shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new bond or bonds of like amount, date, tenor, and effect to the Registered Owner(s) thereof upon the Registered Owner(s)' paying the expenses and charges of the City in connection therewith and upon filing with the Bond Registrar evidence satisfactory to the Bond Registrar that such bond or bonds were actually lost, stolen or destroyed and of registered ownership thereof, and upon furnishing the City with indemnity satisfactory to both.

Section 7. **Payment of Bonds.** Principal of and interest on each Bond shall be payable solely out of the Parity Bond Account, in lawful money of the United States. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is

not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received at least ten days prior to the Record Date and at the sole expense of the Registered Owner. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

Section 8. **Redemption and Purchase of Bonds.**

(a) **Optional Redemption.** All or some of the Bonds may be subject to redemption prior to their stated maturity dates at the option of the City at the times and on the terms approved in accordance with Section 5.

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

(c) **Extraordinary Redemptions.** In addition, the Bond Sale Terms may set forth terms under which a Bond may be subject to extraordinary optional or mandatory redemption prior to maturity upon the occurrence of an extraordinary event, at the price, in the principal amounts and on the dates set forth therein.

(d) **Selection of Bonds for Redemption; Partial Redemption.** If fewer than all of the outstanding Bonds are to be redeemed at the option of the City, the Director of Finance shall select the Series and maturity or maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity of a Series are to be redeemed, the Securities Depository shall select Bonds registered in the name of the Securities Depository to be

redeemed in accordance with the Letter of Representations, and the Bond Registrar shall select all other Bonds to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar there shall be issued to the Registered Owner, without charge, a new Bond (or Bonds, at the option of the Registered Owner) of the same Series, maturity and interest rate in any Authorized Denomination in the aggregate principal amount to remain outstanding.

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

Section 9. **Notice of Redemption.** Unless otherwise set forth in the Bond Sale Terms, the Director of Finance shall cause notice of any intended redemption of Bonds to be given not less than 20 nor more than 60 days prior to the date fixed for redemption by first class mail, postage prepaid, to the Registered Owner of any Bond to be redeemed at the address appearing on the Bond Register on the Record Date, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call.

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

Section 10. **Failure to Pay Bonds.** If any Bond is not paid when properly presented at its maturity or redemption date, the City shall be obligated to pay, solely from the Parity Bond Account and the other sources



pledged in this ordinance, interest on that Bond at the same rate provided in that Bond from and after its maturity or redemption date until that Bond, principal, premium, if any and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Parity Bond Account and that Bond has been called for payment by giving notice of that call to the Registered Owner of that Bond.

Section 11. **Form and Execution of Bonds.** The Bonds shall be typed, printed or reproduced in a form consistent with the provisions of this ordinance, the Bond Sale Terms and State law, shall be signed by the Mayor and Director of Finance, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a certificate of authentication in substantially the following form (with the designation, year, and Series adjusted consistent with this ordinance), manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: “This Bond is one of the fully registered The City of Seattle, Washington, [Drainage and Wastewater Revenue Bonds], [Year], [Series], described in [this ordinance].” The authorized signing of a certificate of authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

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

Section 12. **Construction Account; Deposit of Proceeds.** An account to be known as the Drainage and Wastewater Construction Subaccount, 2017 is created in the Drainage and Wastewater Construction Account

within the Drainage and Wastewater Fund. The principal proceeds of the sale of a Series of the Bonds remaining after the deposit of accrued interest on such Series of the Bonds, if any, into the Principal and Interest Subaccount and the deposit of any proceeds required to be deposited into the Reserve Subaccount (if any), shall be deposited into the Construction Account, or such other fund or account as may be directed by the Director of Finance, to be used for the purpose of paying part of the costs of carrying out the Plan of Additions and to pay capitalized interest on, if necessary, and the costs of issuance of the Bonds. Until needed to pay such costs, the City may invest principal proceeds and interest thereon temporarily in any Permitted Investments, and the investment earnings may, as determined by the Director of Finance, be retained in the Construction Account and be spent for the purposes of that account or deposited in the Parity Bond Account.

Section 13. **Security for the Bonds; Parity with Other Bonds.** The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue (including all ULID Assessments, if any) and by money in the Parity Bond Account and the subaccounts therein, *except that from and after the date on which all Outstanding Parity Bonds identified in Exhibit A have been redeemed or defeased, money in the Reserve Subaccount shall secure only Covered Parity Bonds.* The Net Revenue (including all ULID Assessments, if any) is pledged to make the payments into the Parity Bond Account required by this ordinance and the Parity Bond Legislation. This pledge constitutes a charge and lien upon such Net Revenue prior and superior to all other liens and charges whatsoever.

The Bonds shall be on parity with the Outstanding Parity Bonds and all Future Parity Bonds, without regard to date of issuance or authorization and without preference or priority of right or lien. Nothing in this ordinance prevents the City from issuing revenue bonds or other obligations which are a charge or lien upon Net Revenue subordinate to the payments required to be made from Net Revenue into the Parity Bond Account and the subaccounts therein. The City covenants that, for as long as any Bond is outstanding, it will not issue any other revenue obligations (or create any special fund or account therefor), which will have any priority over

or which will rank on a parity with the payments required in respect of the Parity Bonds, and that it will issue Future Parity Bonds only accordance with Section 17.

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

Section 14. **Priority Expenditure of Gross Revenue; Flow of Funds.** Gross Revenue shall be deposited as received in the Drainage and Wastewater Fund and used for the following purposes only, in the following order of priority:

(a) To pay the Operating and Maintenance Expense;

(b) To make all payments into the Principal and Interest Subaccount required to be made in order to pay the principal of and interest on all Parity Bonds (including all net payments under Parity Payment Agreements) when due;

(c) To make all payments required to be made into the Reserve Subaccount with respect to Parity Bonds secured by the Reserve Subaccount;

(d) To make all required payments into any revenue bond redemption fund created to pay and secure the payment of the principal of and interest on any revenue bonds or short-term obligations of the City having a charge and lien upon Net Revenue subordinate to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(e) To retire by redemption and purchase any outstanding revenue bonds or revenue obligations of the Drainage and Wastewater System; to make necessary additions, betterments, repairs, extensions and replacements of the Drainage and Wastewater System; to pay City taxes or other payments in lieu of taxes payable from Gross Revenue; to make deposits to the Rate Stabilization Account; or for any other lawful Drainage and Wastewater System purpose.

Section 15. **Parity Bond Account.** The Parity Bond Account is divided into two subaccounts: the

Principal and Interest Subaccount and the Reserve Subaccount. The Director of Finance may create sinking fund subaccounts or other subaccounts in the Parity Bond Account for the payment or securing the payment of Parity Bonds as long as the maintenance of such subaccounts does not conflict with the rights of the owners of Parity Bonds.

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

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

(ii) Into the Reserve Subaccount an amount necessary to provide for the Reserve Requirement within the time and in the manner required by this ordinance and the Bond Sale Terms. The amount necessary, if any, to satisfy the Reserve Requirement upon the issuance of a Series of the Bonds may be funded (A) on the Issue Date, by a deposit of bond sale proceeds, available funds of the Drainage and Wastewater System, or a Reserve Security; or (B) in annual installments from Net Revenue so that the Reserve Requirement is fully funded by no later than the fifth anniversary of the Issue Date. The manner of funding the Reserve Requirement for the Bonds shall be set forth in the Bond Sale Terms.

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

required deposits in those subaccounts for the remaining Parity Bonds.

(b) **Reserve Subaccount.** The City covenants that it will at all times, so long as any Covered Parity Bonds are outstanding, maintain the Reserve Subaccount at the Reserve Requirement (taking into account scheduled payments to fund the Reserve Requirement over time), as it is adjusted from time to time, except for withdrawals as authorized by this ordinance. The Director of Finance may make withdrawals of cash from the Reserve Subaccount in the event of a deficiency in the Principal and Interest Subaccount to meet current installments of either principal (or Sinking Fund Requirements) or interest. *From and after the redemption or defeasance of all Outstanding Parity Bonds identified in Exhibit A, the withdrawals authorized by this paragraph shall be limited to the amounts necessary to meet current installments of either principal (or Sinking Fund Requirements) or interest with respect to Covered Parity Bonds.* Any deficiency created in the Reserve Subaccount by reason of any such withdrawal will then be made up from the ULID Assessments and Net Revenue first available after making necessary provisions for the required payments into the Principal and Interest Subaccount. The money in the Reserve Subaccount may be applied to the payment of the last outstanding Parity Bonds, and when the total amount in the Parity Bond Account (including investment earnings) equals the total amount of principal and interest for all then-outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Parity Bond Account. Money in the Reserve Subaccount (including investment earnings) in excess of the Reserve Requirement may be withdrawn and deposited in the Principal and Interest Subaccount and spent for the purpose of retiring Parity Bonds or may be deposited in any other fund or account and spent for any other lawful Drainage and Wastewater System purpose.

(c) **Investment of Money in Parity Bond Account.** All money in the Parity Bond Account may be kept in cash or invested in Permitted Investments maturing not later than the date when needed (for investments in the Principal and Interest Subaccount) or the last maturity of any outstanding Parity Bonds (for investments in the Reserve Subaccount). In no event shall any money in the Parity Bond Account or any other money

reasonably expected to be used to pay principal of and/or interest on the Parity Bonds be invested at a yield which would cause any Series issued as Tax-Exempt Bonds or Tax Credit Subsidy Bonds to be arbitrage bonds within the meaning of Section 148 of the Code. Income from investments in the Principal and Interest Subaccount shall be deposited in that subaccount. Income from investments in the Reserve Subaccount shall be deposited in that subaccount until the amount therein is equal to the Reserve Requirement for all Parity Bonds, and thereafter shall be deposited in the Principal and Interest Subaccount. Notwithstanding the provisions for deposit or retention of earnings in the Parity Bond Account, any earnings which are subject to a federal tax or rebate requirement may be withdrawn from the Parity Bond Account for deposit in a separate fund or account for that purpose. If no longer required for such rebate, money in that separate fund or account shall be returned to the Parity Bond Account.

(d) **Failure to Deposit Money in Parity Bond Account.** If the City fails to set aside and pay into the Parity Bond Account, or the subaccounts therein, the amounts set forth above, the registered owner of any of the outstanding Parity Bonds may bring action against the City for failure to make the required deposits to the Parity Bond Account only in accordance with Section 25 regarding Events of Default.

Section 16. **Parity Bond Covenants.** The City covenants with the Owner of each Bond at any time outstanding, as follows:

(a) **Operation and Maintenance.** It will pay all Operating and Maintenance Expense and otherwise meet the obligations of the City under this ordinance. It will at all times maintain and keep the Drainage and Wastewater System in good repair, working order and condition, will make all necessary and proper additions, betterments, renewals and repairs thereto, and improvements, replacements and extensions thereof so that at all times the business carried on in connection therewith will be properly and advantageously conducted, and will at all times operate or cause to be operated the Drainage and Wastewater System and the business in connection therewith in an efficient manner and at a reasonable cost.

(b) **Establishment of Rates and Charges.** It will establish, maintain, revise as necessary and

collect rates and charges for services and facilities provided by the Drainage and Wastewater System so that Adjusted Net Revenue in each fiscal year will be at least equal to the Coverage Requirement. The failure of the City to comply with this subsection shall not be an Event of Default if the City promptly retains an Independent Utility Consultant to recommend to the City Council adjustments in the rates of the Drainage and Wastewater System necessary to meet the requirements of this subsection and if the City Council adopts the recommended modifications within 180 days of the date the failure became known to the City Council.

(c) **Sale or Disposition of Drainage and Wastewater System.** It will not sell, lease, mortgage, or in any manner encumber or dispose of all of the property of the Drainage and Wastewater System unless provision is made for the payment into the Parity Bond Account of an amount sufficient to pay the principal of and interest on Parity Bonds then outstanding; and it will not sell, lease, mortgage, or in any manner encumber or dispose of (each a “transfer”) any part of the property of the Drainage and Wastewater System that is used, useful and material to the operation thereof, except consistent with one or more of the following:

(i) If provision is made for replacement thereof, or for payment into the Parity Bond Account of the total amount of Gross Revenue received from the portion of the Drainage and Wastewater System transferred, which shall not be less than an amount which shall bear the same ratio to the amount of Parity Bonds then outstanding as the Gross Revenue available for debt service for such outstanding bonds for the 12 months preceding such transfer from the portion of the Drainage and Wastewater System so transferred bears to the Gross Revenue available for debt service for the then outstanding Parity Bonds from the entire Drainage and Wastewater System of the City for the same period. Any such money so paid into the Parity Bond Account shall be used to retire such Parity Bonds at the earliest possible date; or

(ii) If the aggregate depreciated cost value of the property being transferred under this subsection in any fiscal year comprises no more than 5% of the total assets of the Drainage and Wastewater System; or

(iii) If the proceeds from such transfer are used to acquire new useful operating facilities or

properties of the Drainage and Wastewater System, or are used to retire outstanding Parity Bonds or other revenue obligations of the Drainage and Wastewater System, and if, at the time of such transfer, the City has on file a certificate of both the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of either office) demonstrating that in their opinion, upon such transfer and the use of proceeds of the transfer as proposed by the City, the remaining facilities of the Drainage and Wastewater System will retain their operational integrity and, based on the financial statements for the most recent fiscal year available, the proposed transfer would not prevent the Drainage and Wastewater System from complying with the Coverage Requirement during the five fiscal years following the fiscal year in which the transfer is to occur. The certificate shall take into account (A) the reduction in revenue and expenses, if any, resulting from the transfer; (B) the use of any proceeds of the transfer for the redemption of Parity Bonds; (C) the estimate of revenue from customers anticipated to be served by any additions to and betterments and extensions of the Drainage and Wastewater System financed in part by the proposed portion of the proceeds of the transfer; and (D) any other adjustment permitted in the preparation of a certificate under Section 17(a) (vi). Before such a transfer, the City also must obtain confirmation from each of the Rating Agencies to the effect that the rating then in effect will not be reduced or withdrawn upon such transfer.

(d) **Books and Records.** It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the Drainage and Wastewater System, and it will furnish the Registered Owner(s) of the Bonds or any subsequent Registered Owner(s) thereof, at the written request of such Registered Owner(s), complete operating and income statements of the Drainage and Wastewater System in reasonable detail covering any fiscal year not more than six months after the close of such fiscal year and it will grant any Registered Owner(s) of at least 25% of the outstanding Bonds the right at all reasonable times to inspect the entire Drainage and Wastewater System and all records, accounts and data of the City relating thereto. Upon request of any Registered Owner of any of the Bonds, it also will furnish to such Registered Owner a copy of the most recently completed audit of the City's accounts by the State Auditor.



Section 17. **Future Parity Bonds.**

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

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

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

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

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

(v) The Future Parity Bond Legislation must provide for the deposit into the Reserve Subaccount of (A) an amount, if any, necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds from Future Parity Bond proceeds or other money legally available; (B) one or more Reserve Securities or an amount plus Reserve Securities necessary to fund the Reserve Requirement upon the issuance of those Future Parity Bonds, or (C) amounts necessary to fund the Reserve Requirement from ULID Assessments and Net Revenue within five years from the date of issuance of those Future Parity Bonds, in five approximately equal annual payments. Immediately prior to the issuance of Future Parity Bonds, amounts then deposited in the Reserve Subaccount shall be valued as determined on the most recent annual financial report of the City applicable to the Drainage and Wastewater System, and the additional amounts, if any, needed to be deposited into the Reserve Subaccount to satisfy the Reserve Requirement shall be based on that valuation.

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

(A) A certificate of the Director of Finance demonstrating that during any 12 consecutive calendar months out of the immediately preceding 24 calendar months Adjusted Net Revenue was at least equal to the Coverage Requirement for all Parity Bonds plus the Future Parity Bonds proposed to be issued (and assuming that the debt service of the proposed Future Parity Bonds for that 12-month period was the Average Annual Debt Service for those proposed Future Parity Bonds); or

(B) A certificate of the Director of Finance and the Director of Seattle Public Utilities (or any officer who succeeds to substantially all of the responsibilities of that office) that, in their opinion, Adjusted Net Revenue for the five fiscal years next following the earlier of (1) the end of the period during which interest on those Future Parity Bonds is to be capitalized or, if no interest is capitalized, the fiscal year in which the Future Parity Bonds are issued, or (2) the date on which substantially all new facilities financed with those Future Parity Bonds are expected to commence operations, such Adjusted Net Revenue, further adjusted as provided in paragraphs (1) through (4) below, will be at least equal to the Coverage Requirement. That certificate may take into account the following adjustments:

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

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

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

(4) Net revenue from any person, firm, corporation or municipal corporation

under any executed contract for drainage and wastewater or other utility service, which revenue was not included in historical Net Revenue of the Drainage and Wastewater System.

(b) If the Future Parity Bonds proposed to be issued are for the sole purpose of refunding Parity Bonds, no such coverage certification shall be required if the Adjusted Annual Debt Service on the Parity Bonds after the issuance of the Future Parity Bonds is not, for any year in which the Parity Bonds being refunded were outstanding, more than \$5,000 over the Adjusted Annual Debt Service on the Parity Bonds prior to the issuance of those Future Parity Bonds. Nothing contained herein shall prevent the City from issuing Future Parity Bonds to refund maturing Parity Bonds, money for the payment of which is not otherwise available, or revenue bonds that are a charge or lien upon Gross Revenue subordinate to the charge or lien of the Parity Bonds, or from pledging to pay assessments levied for ULID improvements constructed from the proceeds of subordinate lien bonds into a bond redemption fund created for the payment of the principal of and interest on those subordinate lien bonds.

(c) Notwithstanding anything in this section to the contrary, in the Bond Sale Terms relating to the issuance or sale of a series of Future Parity Bonds, the City may elect that, *from and after the redemption or defeasance of all Outstanding Parity Bonds identified in Exhibit A*, such series shall not be deemed to be a series of Covered Parity Bonds, shall not be secured by the amounts in the Reserve Account, and shall be excluded from the calculation of the Reserve Requirement.

Section 18. **Rate Stabilization Account.** The Rate Stabilization Account has been created as a separate account in the Drainage and Wastewater Fund. The City may at any time, as determined by the Director of Finance, deposit in the Rate Stabilization Account Gross Revenue and any other money received by the Drainage and Wastewater System and available for this purpose, consistent with Section 14. The Director of Finance may, upon authorization by resolution of the City Council, withdraw any or all of the money in the Rate Stabilization Account for inclusion in Adjusted Gross Revenue for any fiscal year. Such deposits or withdrawals may be made up to and including the date 90 days after the end of the fiscal year for which the

deposit or withdrawal will be included as Adjusted Gross Revenue. No deposit of Gross Revenue may be made into the Rate Stabilization Account to the extent that such deposit would prevent the City from meeting the Coverage Requirement in the relevant fiscal year.

Section 19. **Separate Utility Systems.** The City may create, acquire, construct, finance, own and operate one or more additional systems for drainage and wastewater service or other commodity or service relating to the Drainage and Wastewater System. The revenue of that separate utility system shall not be included in Gross Revenue and may be pledged to the payment of revenue obligations issued to purchase, construct, condemn or otherwise acquire or expand the separate utility system. Neither Gross Revenue nor Net Revenue shall be pledged by the City to the payment of any obligations of a separate utility system except (a) as a Contract Resource Obligation, or (b) with respect to the Net Revenue, on a basis subordinate to the lien of the Parity Bonds on that Net Revenue.

Section 20. **Contract Resource Obligations.** The City may at any time enter into one or more Contract Resource Obligations for the acquisition, from facilities to be constructed, of drainage and wastewater services or other commodity or service relating to the Drainage and Wastewater System, as follows:

(a) The City may determine that, and may agree under a Contract Resource Obligation to provide that, all payments under that Contract Resource Obligation (including payments prior to the time that drainage and wastewater services or other commodity or service is being provided, or during a suspension or after termination of supply or service) shall be an Operating and Maintenance Expense if the following requirements are met at the time such a Contract Resource Obligation is entered into:

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

(ii) There shall be on file a certificate of an Independent Utility Consultant stating that (A) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the commodity or service rendered; (B) any facilities to be constructed to provide the commodity or service are sound from a drainage and wastewater services or other commodity or service planning standpoint, are

technically and economically feasible in accordance with prudent utility practice, and are likely to provide supply or transmission no later than a date set forth in the Independent Utility Consultant's certification; and (C) Adjusted Net Revenue (further adjusted by the Independent Utility Consultant's estimate of the payments to be made in accordance with the Contract Resource Obligation) for the five fiscal years following the year in which the Contract Resource Obligation is incurred, as such Adjusted Net Revenue is estimated by the Independent Utility Consultant in accordance with the provisions of and adjustments permitted in Section 17(a)(vi)(B), will be at least equal to the Coverage Requirement.

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

(c) Nothing in this section shall be deemed to prevent the City from entering into other agreements for the acquisition of drainage and wastewater services or other commodity or service from existing facilities and from treating those payments as an Operating and Maintenance Expense. Nothing in this section shall be deemed to prevent the City from entering into other agreements for the acquisition of drainage and wastewater services or other commodity or service from facilities to be constructed and from agreeing to make payments with respect thereto, such payments constituting a charge and lien on Net Revenue subordinate to the Parity Bonds.

Section 21. **Refunding and Defeasance of the Bonds.** The Bonds are hereby designated "Refundable Bonds" for purposes of the Omnibus Refunding Bond Ordinance. The City may issue refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay when due the principal of, premium, if any, and interest on any Bond, or portion thereof, included in a refunding or defeasance plan, and to redeem and retire, release, refund or defease those Bonds (the "defeased Bonds") and to pay the costs of such refunding or defeasance. If money and/or Government Obligations maturing at a time or times and in an amount sufficient, together with known earned income from the investment thereof, to redeem and retire, release, refund or defease the defeased Bonds in accordance with their terms, are set aside in a special trust

fund or escrow account irrevocably pledged to such redemption, retirement or defeasance (the “trust account”), then all right and interest of the Owners of the defeased Bonds in the covenants of this ordinance and in Net Revenue and the funds and accounts pledged to the payment of such defeased Bonds, other than the right to receive the funds so set aside and pledged, thereafter shall cease and become void. Such Owners thereafter shall have the right to receive payment of the principal of and interest or redemption price on the defeased Bonds from the trust account. After establishing and fully funding such a trust account, the defeased Bonds shall be deemed to be no longer outstanding, and the Director of Finance then may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes. Notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner set forth in this ordinance for the redemption of Bonds.

If the refunding or defeasance plan provides that the defeased Bonds or the refunding bonds to be issued be secured by money and/or Government Obligations pending the prior redemption of the defeased Bonds and if such refunding or defeasance plan also provides that certain money and/or Government Obligations are pledged irrevocably for the prior redemption of the defeased Bonds included in that refunding or defeasance plan, then only the debt service on the Bonds which are not defeased Bonds and the refunding bonds, the payment of which is not so secured by the refunding plan, shall be included in the computation of the Coverage Requirement for the issuance of Future Parity Bonds and the annual computation of the Coverage Requirement for determining compliance with the rate covenants.

Section 22. **Provisions Relating to Certain Federal Tax Consequences of the Bonds.**

(a) **Tax-Exempt Bonds.** With respect to any Series of the Bonds issued as Tax-Exempt Bonds, the City covenants that it will take all actions, consistent with the terms of such Series, this ordinance, and the applicable Bond Resolution, reasonably within its power and necessary to prevent interest on that Series from being included in gross income for federal income tax purposes, and the City will neither take any action nor make or permit any use of gross proceeds of that Series or other funds of the City treated as gross proceeds of

that Series at any time during the term of such Series that will cause interest on such Series to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Code is applicable to any Series issued as Tax-Exempt Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with that Series, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on such Series from being included in gross income for federal income tax purposes.

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

Section 23. **Official Statement; Continuing Disclosure.**

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

(b) **Final Official Statement.** The City approves the preparation of a final official statement for each sale of one or more Series to be sold to the public in the form of the preliminary official statement with

such modifications and amendments as the Director of Finance deems necessary or desirable, and further authorizes the Director of Finance to execute and deliver such final official statement to the Purchaser. The City authorizes and approves the distribution by the Purchaser of that final official statement to purchasers and potential purchasers of the Bonds.

(c) **Undertaking to Provide Continuing Disclosure.** To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a Purchaser of a Series, the Director of Finance is authorized to execute an Undertaking for such Series in substantially the form attached as Exhibit B.

Section 24. **Supplemental or Amendatory Legislation.** This ordinance and any related Bond Resolution authorizing each Series of the Bonds may not be supplemented or amended in any respect subsequent to the Issue Date of such Series, except as provided in and in accordance with and subject to the provisions of this section. As used in this Section 24, the term “Bond Legislation” shall refer to this ordinance and any Bond Resolution relating to a Series of the Bonds.

(a) **Amendments Without Bond Owner Consent.** From time to time and at any time, without the consent of or notice to the owners of the Parity Bonds, the City may pass or adopt supplemental or amendatory ordinances or resolutions for any of the following purposes:

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

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

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



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

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

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

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

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

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

(b) **Amendments With Bond Owner Consent.** With the consent of registered owners of not less

than 60% in aggregate principal amount of the Parity Bonds then outstanding, the City Council may pass or adopt any supplemental or amendatory ordinance or resolution, other than one effecting a change described in subsection (c), that is deemed necessary or desirable by the City for the purpose of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in the Bond Legislation.

(c) **Amendments Prohibited Except Upon Unanimous Consent.** Unless approved in writing by the registered owner of each Parity Bond then outstanding, nothing contained in this section shall permit, or be construed as permitting (i) a change in the times, amounts or currency of payment of the principal of or interest on any outstanding Parity Bond, or a reduction in the principal amount or redemption price of any outstanding Parity Bond or a change in the method of determining the rate of interest thereon, (ii) a preference or priority of any Parity Bond over any other Parity Bond, or (iii) a reduction in the aggregate principal amount of Parity Bonds.

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

(e) **Effective Date; Consents.** Within two years after the date of the mailing of such notice, such supplemental or amendatory ordinance or resolution, substantially as described in such notice, may go into effect, but only if there shall have first been delivered to the Bond Registrar (i) the required consents, in writing, of registered owners of the Parity Bonds, and (ii) an opinion of Bond Counsel stating that such supplemental or amendatory ordinance or resolution is authorized or permitted by this ordinance and, upon the

effective date thereof, will be valid and binding upon the City in accordance with its terms and will not adversely affect the exclusion from gross income for federal income tax purposes of interest on any Tax-Exempt Bonds.

If registered owners of not less than the percentage of Parity Bonds required by this section shall have consented to and approved the passage or adoption of such a supplemental or amendatory ordinance or resolution, no owner of a Parity Bond shall have any right (i) to object to the passage or adoption of such supplemental or amendatory ordinance or resolution, (ii) to object to any of the terms and provisions contained therein or the operation thereof, (iii) in any manner to question the propriety of the passage or adoption thereof, (iv) to enjoin or restrain the City from passing or adopting the same, or (v) to enjoin or restrain the City, any authorized official thereof, or the Bond Registrar from taking any action pursuant to the provisions thereof. For purposes of determining whether consents representing the requisite percentage of principal amount of Parity Bonds have been obtained, the Accreted Value of Capital Appreciation Bonds shall be deemed to be the principal amount. It shall not be necessary to obtain approval of the particular form of any proposed supplemental resolution or ordinance, but it shall be sufficient if the consent shall approve the substance thereof.

Upon the effective date of any supplemental or amendatory ordinance or resolution passed or adopted pursuant to the provisions of this section, this ordinance (or the relevant Bond Resolution, as applicable) shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City, the Bond Registrar and all owners of Parity Bonds then outstanding shall thereafter be determined, exercised and enforced under this ordinance subject in all respects to such modifications and amendments.

(f) **Special Amendments.** The Registered Owners from time to time of the Bonds, by taking and holding the same, shall be deemed to have consented to the adoption by the City of any supplemental or amendatory ordinance or resolution passed pursuant to the provisions of this section for any one or more of the

following purposes:

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

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

(iii) To permit the reimbursement obligations of the City under any Qualified Letter of Credit or Qualified Insurance (other than a Qualified Letter of Credit or Qualified Insurance obtained to satisfy all or part of the Reserve Requirement) to be secured by a lien and charge on Net Revenue equal in rank with the lien and charge upon such Net Revenue required to be paid into the Parity Bond Account to pay and secure the payment of the principal of and interest on Parity Bonds.

Section 25. **Defaults and Remedies.**

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

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

(ii) If the City defaults in the observance and performance of any other of the covenants, conditions and agreements on the part of the City set forth in this ordinance or in any Parity Bond Legislation (except as otherwise provided herein or in such Parity Bond Legislation) and such default or defaults have continued for a period of six months after the City has received from the Bond Owners’ Trustee (as defined below) or from the registered owners of not less than 25% in principal amount of the Parity Bonds a written notice specifying and demanding the cure of such default. However, if the default in the observance and performance of any other of the covenants, conditions and agreements is one which cannot be completely remedied within the six months after written notice has been given, it shall not be an Event of Default with

respect to the Bonds as long as the City has taken active steps within the six months after written notice has been given to remedy the default and is diligently pursuing such remedy.

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

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

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

The Bond Owners' Trustee appointed in the manner herein provided, and each successor thereto, is

declared to be a trustee for the registered owners of all the Parity Bonds and is empowered to exercise all the rights and powers herein conferred on the Bond Owners' Trustee.

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

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

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

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

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

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

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

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

(e) **Duties and Obligations of Bond Owners' Trustee.** The Bond Owners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default,

the Bond Owners' Trustee shall exercise such of the rights and powers vested in it hereby, and shall use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Bond Owners' Trustee shall have no liability for any act or omission to act hereunder except for the Bond Owners' Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bond Owners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties or obligations of the Bond Owners' Trustee shall be read into this ordinance.

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

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

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

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

- (i) an Event of Default has happened and is continuing; and
- (ii) a Bond Owners' Trustee has been appointed; and

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



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

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

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

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

Section 26. **Amendment of Omnibus Refunding Bond Ordinance.** The following provisions of the Omnibus Refunding Bond Ordinance are amended to read as set forth in this section. Amendments are shown as revisions to the amended and restated version of the Omnibus Refunding Bond Ordinance, which was attached to Ordinance 124338 as Exhibit C, as amended by Section 26 of Ordinance 124914. The text shown below as original text incorporates the amendments set forth in Section 26 of Ordinance 124914, and displays the amendments provided for herein using double underlining to mark added text and enclosing deleted text in double parentheses using strikethrough formatting. References to section numbers and defined terms used in the amended text set forth below refer to the sections and definitions contained within the amended Omnibus Refunding Bond Ordinance, except that, for purposes of the springing amendments set forth in this section, the term "Outstanding Parity Bonds" shall mean those Parity Bonds identified on Exhibit A to this amendatory ordinance.

Those amendments set forth below, other than springing amendments and amendments with only a prospective effect, are intended to clarify ambiguities in the Omnibus Refunding Bond Ordinance. Nonetheless, any amendment set forth in this section that is found by a court of competent jurisdiction to adversely affect

owners of outstanding Parity Bonds shall be of no force or effect, and the provisions of the Omnibus Refunding Bond Ordinance prior to the effective date of this amendatory ordinance shall continue in effect as to such outstanding Parity Bonds.

(a) **Amendments to Section 1.** The following definitions are amended as follows:

\* \* \*

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

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

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

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

(ii) **Interest on Variable Interest Rate Bonds.** The amount of interest deemed to be payable on any issue of Variable Interest Rate Bonds shall be calculated on the assumption that the interest rate on those bonds would be equal to the rate that is 90% of the average RBI during the four calendar quarters preceding the quarter in which the calculation is made.

(iii) **Interest on Parity Bonds ((With)) with Respect to Which a Payment Agreement is in Force.** Debt service on Parity Bonds with respect to which a Payment Agreement is in force shall be based on the net economic effect on the City expected to be produced by the terms of the Parity Bonds and the terms of the Payment Agreement, including but not limited to the effects produced by the following: (A) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a Variable Interest Rate instead shall be treated as obligations bearing interest at a fixed interest rate, and (B) Parity Bonds that would, but for a Payment Agreement, be treated as obligations bearing interest at a fixed interest rate instead shall be treated as obligations bearing interest at a Variable Interest Rate. Accordingly, the amount of interest deemed to be payable on any Parity Bonds with respect to which a Payment Agreement is in force shall be an amount equal to the amount of interest that would be payable at the rate or rates stated in those Parity Bonds plus Payment Agreement Payments minus Payment Agreement Receipts. For the purposes of calculating as nearly as practicable Payment Agreement Receipts and Payment Agreement Payments under a Payment Agreement that includes a variable rate component determined by reference to a pricing mechanism or index that is not the same as the pricing mechanism or index used to determine the variable rate interest component on the Parity Bonds to which the Payment Agreement is related, it shall be assumed that the fixed rate used in calculating Payment Agreement Payments will be equal to 105% of the fixed rate specified by the Payment

Agreement and that the pricing mechanism or index specified by the Payment Agreement is the same as the pricing mechanism or index specified by the Parity Bonds. Notwithstanding the other provisions of this subparagraph, the City shall not be required to (but may in its discretion) take into account in determining Annual Debt Service the effects of any Payment Agreement that has a term of ten years or less.

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

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

(B) **City Obligated to Make Payments Based on Variable Rate Index.** If the City is obligated to make Payment Agreement Payments based on a variable rate index and the Qualified Counterparty is obligated to make payment based on a fixed rate, that payments by the City will be based on a rate equal to the average rate determined by the

variable rate index specified by the Parity Payment Agreement during the four calendar quarters preceding the quarter in which the calculation is made, and that the Qualified Counterparty will make payments based on the fixed rate specified by the Parity Payment Agreement.

*(v) Balloon Bonds. Upon the redemption or defeasance of all of the Outstanding Parity Bonds [as identified in Exhibit A to this amendatory ordinance], the following shall become effective: For purposes of calculating debt service on any Balloon Bonds, it shall be assumed that the principal of those Balloon Bonds, together with interest thereon at a rate equal to the assumed RBI-based rate, will be amortized in equal annual installments over a term of 30 years.*

\* \* \*

**“Authorized Denomination”** means \$5,000 or any integral multiple thereof within a maturity of a Series, or such other minimum denomination as may be specified in the Bond Sale Terms for a Series of the Bonds.

\* \* \*

**“Balloon Bonds”** means any series of Parity Bonds designated as Balloon Bonds in accordance with the applicable Parity Bond Legislation.

\* \* \*

**“Bond Registrar”** means the Fiscal Agent (unless the ~~((Bond Resolution))~~ Director of Finance provides for a different ~~((B))~~bond ~~((R))~~registrar with respect to a particular Series); or any successor bond registrar selected in accordance with the Registration Ordinance.

\* \* \*

**“Bond Sale Terms”** means the terms and conditions for the sale of a Series of the Bonds approved by the Director of Finance consistent with the parameters set forth in Section 4, including the amount, date or dates, denominations, interest rate or rates (or mechanism for

determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms, conditions or covenants(~~(set forth in Section 4)~~).

\* \* \*

**“Covered Parity Bonds”** means all Outstanding Parity Bonds, each Series of the Bonds, and each series of Future Parity Bonds, unless in the Bond Sale Terms or other contract for the sale of any series of the Bonds or of Future Parity Bonds, the City elects that, *from and after the redemption or defeasance of all Outstanding Parity Bonds [as identified in Exhibit A to this amendatory ordinance]*, such series shall not be treated as a series of Covered Parity Bonds and shall not be secured by the amounts in the Reserve Subaccount.

\* \* \*

**“Government Obligations”** unless otherwise defined in the Bond Sale Terms relating to a particular Series of the Bonds authorized hereunder, has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

\* \* \*

**“Parity Bonds”** means the Outstanding Parity Bonds, the Bonds, and any outstanding Future Parity Bonds. Parity Bonds may include Parity Payment Agreements in accordance with Section 17.

\* \* \*

**“Qualified Letter of Credit”** means any letter of credit, standby bond purchase agreement or similar instrument issued by a financial institution for the account of the City on behalf of the Beneficial Owner of any Parity Bond, which institution maintains an office, agency or branch in the United States and, as of the time of issuance of such letter of credit, is rated in one of the two highest rating categories by at least two nationally recognized rating agencies.

\* \* \*

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

\* \* \*

“**Reserve Requirement**” means the least of (a) Maximum Annual Debt Service on all Parity Bonds outstanding at the time of calculation, (b) 1.25 times Average Annual Debt Service on all Parity Bonds outstanding at the time of calculation, or (c) 10% of the proceeds of each series of Parity Bonds then outstanding, as of the delivery of each such series. *From and after the defeasance or redemption of all Outstanding Parity Bonds [as identified in Exhibit A to this amendatory ordinance], the Reserve Requirement shall mean the least of (a) Maximum Annual Debt Service on all Covered Parity Bonds outstanding at the time of calculation, or (b) 1.25 times Average Annual Debt Service on all Covered Parity Bonds outstanding at the time of calculation. In no event shall the Reserve Requirement exceed 10% of the proceeds of each series of Covered Parity Bonds then outstanding, determined as of the Issue Date of each such series.*

(b) **Amendments to Section 5.** The following new subsection (d) is added to Section 5 (Bond Registrar; Registration and Transfer of Bonds):

(d) **Lost or Stolen Bonds.** In case any Bond shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new bond or bonds of like amount, date, tenor, and effect to the Registered Owner(s) thereof upon the Registered Owner(s)’ paying the expenses and charges of the City in connection therewith and upon filing with the Bond

Registrar evidence satisfactory to the Bond Registrar that such bond or bonds were actually lost, stolen or destroyed and of registered ownership thereof, and upon furnishing the City with indemnity satisfactory to both.

(c) **Amendments to Section 7(b).** The following amendments are made to Section 7(b) (Redemption and Purchase of Bonds - Mandatory Redemption):

**Section 7. Redemption and Purchase of Bonds.**

\* \* \*

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

In addition, the Bond Sale Terms may set forth terms under which a Bond may be subject to extraordinary optional or mandatory redemption prior to maturity upon the occurrence of an extraordinary event, at the price, in the principal amounts and on the dates set forth therein.

\* \* \*

(d) **Amendments to Section 8.** The following amendments are made to Section 8 (Notice of Redemption):

**Section 8. Notice of Redemption.** Unless otherwise set forth in the Bond Sale Terms, the Director of Finance ((The City)) shall cause notice of any intended redemption of Bonds to be



given not less than 20 nor more than 60 days prior to the date fixed for redemption by first class mail, postage prepaid, to the Registered Owner of any Bond to be redeemed at the address appearing on the Bond Register on the Record Date, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call.

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

(e) **Amendments to Section 14.** The following amendments are made to Section 14 (Security for the Bonds; Parity with other Bonds):

Section 14. **Security for the Bonds; Parity with other Bonds.** The Bonds shall be special limited obligations of the City payable from and secured solely by the Net Revenue ~~((and ))~~ ((including all ULID Assessments, if any)), and by money in the Parity Bond Account and the subaccounts therein, ~~((including, without limitation,))~~ *except that from and after the date on which all Outstanding Parity Bonds [as identified in Exhibit A to this amendatory ordinance] have been redeemed or defeased, money in the Reserve Subaccount shall secure only the Covered Parity Bonds.* The Net Revenue ~~((and))~~ ((including all ULID Assessments, if any)) ~~((are ))~~ is pledged to make the payments ((€)) into the Parity Bond((s)) Account required by this ordinance and the Parity Bond Legislation. This pledge ~~((shall))~~ constitutes a charge and lien

upon ~~((the))~~ such Net Revenue prior and superior to ~~((any))~~ all other charges and liens whatsoever. The City covenants that for as long as any Bond is outstanding that it will not issue any other revenue obligations (or create any special fund or account therefor), which will have any priority over or which will rank on a parity with the payments required in respect of the Bonds and the Outstanding Parity Bonds, nor will it issue Future Parity Bonds, except in accordance with Section 18.

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

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

(f) **Amendments to Section 15.** The following amendments are made to Section 15 (Priority Expenditure of Gross Revenue; Flow of Funds):

Section 15. **Priority Expenditure of Gross Revenue; Flow of Funds.** The Gross Revenue ~~(((except for earnings on investments in the Parity Bond Account or other bond redemption fund, arbitrage rebate account, refunding escrow account or other trust account, unless those earnings are transferred from those accounts or funds to the Drainage and Wastewater Fund)))~~ shall be deposited as received in the Drainage and Wastewater Fund and shall be applied in the following order of priority:

(a) To pay the Operating and Maintenance Expense;

(b) To make ~~((the required))~~ all payments into the Principal and Interest Subaccount required to be made in order to pay the principal of and interest on ~~((for))~~ all Parity Bonds (including all net payments under Parity Payment Agreements) when due;

(c) To make ~~((the required))~~ all payments required to be made into the Reserve Subaccount ~~((for all))~~ with respect to Parity Bonds secured by the Reserve Subaccount;

(d) To make all required payments into any revenue bond redemption fund created to pay and secure the payment of the principal of and interest on any revenue bonds or short term obligations of the City having a charge and lien upon ~~((the))~~ Net Revenue subordinate to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

(e) To retire by redemption and purchase any outstanding revenue bonds or revenue obligations of the Drainage and Wastewater System; to make necessary additions, betterments, repairs, extensions and replacements of the Drainage and Wastewater System; to pay City taxes or other payments in lieu of taxes payable from Gross Revenue; to make deposits to the Rate Stabilization Account; or for any other lawful Drainage and Wastewater System purpose.

(g) **Amendments to Section 16(b).** The following amendments are made to Section 16(b) (Parity Bond Account - Reserve Subaccount):

**Section 16. Parity Bond Account.**

\* \* \*

(b) **Reserve Subaccount.** The City covenants that it will at all times so long as any Covered Parity Bonds are outstanding, maintain the Reserve Subaccount at the Reserve Requirement (taking into account scheduled payments to fund the Reserve Requirement over time), as it is adjusted from time to time, except for withdrawals as authorized by this ordinance. The Director of Finance may make withdrawals of cash from the Reserve Subaccount in the

event of a deficiency in the Principal and Interest Subaccount to meet (~~(maturing)~~) current installments of either principal (or Sinking Fund Requirements) or interest. ***From and after the redemption or defeasance of all Outstanding Parity Bonds [as identified in Exhibit A to this amendatory ordinance], the withdrawals authorized by this paragraph shall be limited to the amounts necessary to meet current installments of either principal (or Sinking Fund Requirements) or interest with respect to Covered Parity Bonds.*** Any deficiency created in the Reserve Subaccount by reason of any such withdrawal will then be made up from the ULID Assessments and Net Revenue first available after making necessary provisions for the required payments into the Principal and Interest Subaccount. The money in the Reserve Subaccount may be applied to the payment of the last outstanding Parity Bonds, and when the total amount in the Parity Bond Account (including investment earnings) equals the total amount of principal and interest for all then-outstanding Parity Bonds to the last maturity thereof, no further payment need be made into the Parity Bond Account. Money in the Reserve Subaccount (including investment earnings) in excess of the Reserve Requirement may be withdrawn and deposited in the Principal and Interest Subaccount and spent for the purpose of retiring Parity Bonds or may be deposited in any other fund or account and spent for any other lawful Drainage and Wastewater System purpose.

(h) **Amendments to Section 18.** The following new subsection (b) is added to Section 18 (Future Parity Bonds):

**Section 18. Future Parity Bonds; Parity Payment Agreements.**

\* \* \*

(c) Notwithstanding anything in this section to the contrary, in the Bond Sale Terms relating to the issuance or sale of a series of Future Parity Bonds, the City may elect that, ***from and after the redemption or defeasance of all Outstanding Parity Bonds [identified in Exhibit***

A to this amendatory ordinance], such series shall not be deemed to be a series of Covered Parity Bonds, shall not be secured by the amounts in the Reserve Account, and shall be excluded from the calculation of the Reserve Requirement.

*(i) Amendments to Section 25. The following amendments to Section 25 (Supplemental or Amendatory Ordinances) shall be effective only as to Future Parity Bonds issued pursuant to the Omnibus Refunding Bond Ordinance in 2017 or later, and such amendments shall not apply to Outstanding Parity Bonds (as identified in Exhibit A to this amendatory ordinance):*

Section 25. ~~Supplemental or Amendatory~~ ~~(Ordinances)~~ Legislation. ~~((a))~~ This ordinance and the related Bond Resolution authorizing each Series of the Bonds may ~~((shall))~~ not be supplemented or amended in any respect subsequent to the Issue Date of such Series, except as provided in and in accordance with and subject to the provisions of this section. As used in this Section 25, the term “Bond Legislation” shall refer to this ordinance and any Bond Resolution relating to a Series of the Bonds.

~~((b))~~ (a) Amendments Without Bondowner Consent. ~~((The City may, f))~~ From time to time and at any time, without the consent of or notice to the owners of the Parity Bonds, the City may pass or adopt supplemental or amendatory ordinances or resolutions for any of the following purposes:

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

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

(iii) To add to the covenants and agreements of, and limitations and

restrictions upon, the City in ~~((this ordinance))~~ the Bond Legislation other covenants, agreements, limitations and restrictions to be observed by the City which are not contrary to or inconsistent with this ordinance as theretofore in effect;

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

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

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

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

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

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

**(b) Amendments With Bond Owner Consent.** (~~(e) Except for any supplemental or amendatory ordinance passed pursuant to subsection (b) of this section, subject to the terms and provisions contained in this subsection (e) and not otherwise:)~~)

~~((i))~~ With the consent of registered owners of not less than 60% in aggregate principal amount of the Parity Bonds then outstanding, the City Council may pass or adopt any supplemental or amendatory ordinance or resolution, other than one effecting a change described in subsection (c), that is deemed necessary or desirable by the City for the purpose of modifying, altering, amending, supplementing or rescinding, in any particular, any of the terms or provisions contained in (~~this ordinance~~) the Bond Legislation.

**(c) Amendments Prohibited Except Upon Unanimous Consent.** (~~However, unless~~) Unless approved in writing by the registered owner of each Parity Bond then outstanding, nothing contained in this section shall permit, or be construed as permitting (~~(A)~~) (i) a change in the times, amounts or currency of payment of the principal of or interest on any outstanding Parity Bond, or a reduction in the principal amount or redemption price of any outstanding Parity Bond or a change in the method of determining the rate of interest thereon, (~~(B)~~) (ii) a preference or priority of any Parity Bond over any other Parity Bond, or (~~(C)~~) (iii) a reduction in the aggregate principal amount of Parity Bonds.

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

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

~~((iv))~~ If registered owners of not less than the percentage of Parity Bonds required by this ~~((sub))~~ section ~~((e))~~ shall have consented to and approved the passage or adoption of such a supplemental or amendatory ordinance or resolution, no owner of a Parity Bond shall have any right (i) to object to the passage of such supplemental ordinance or resolution, ~~((e))~~ (ii) to object to any of the terms and provisions contained therein or the operation thereof, ~~((e))~~ (iii) in any manner to question the propriety of the passage or adoption thereof, ~~((e))~~ (iv) to enjoin or



restrain the City from passing or adopting the same, or (v) to enjoin or restrain the City, any authorized official thereof, or the Bond Registrar from taking any action pursuant to the provisions thereof. For purposes of determining whether consents representing the requisite percentage of principal amount of Parity Bonds have been obtained, the Accreted Value of Capital Appreciation Bonds shall be deemed to be the principal amount. It shall not be necessary to obtain approval of the particular form of any proposed supplemental resolution or ordinance, but it shall be sufficient if the consent shall approve the substance thereof.

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

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

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

(iii) To permit the reimbursement obligations of the City under any Qualified Letter of Credit or Qualified Insurance (other than a Qualified Letter of Credit or Qualified Insurance obtained to satisfy all or part of the Reserve Requirement) to be secured by a lien and charge on Net Revenue equal in rank with the lien and charge upon such Net Revenue required to be paid into the Parity Bond Account to pay and secure the payment of the principal of and interest on Parity Bonds.

~~((g))~~ (g) Upon the effective date of any supplemental or amendatory ordinance or

resolution passed or adopted pursuant to the provisions of this section, this ordinance (or the relevant Bond Resolution, as applicable) shall be, and be deemed to be, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City, the Bond Registrar and all owners of Parity Bonds then outstanding shall thereafter be determined, exercised and enforced under this ordinance subject in all respects to such modifications and amendments.

(j) **Other Sections Unaffected.** All other provisions of the Omnibus Refunding Bond Ordinance, as previously amended, remain in full force and effect.

Section 27. **General Authorization.** In addition to the specific authorizations in this ordinance, the Mayor and the Director of Finance and each of the other appropriate officers of the City are each authorized and directed to do everything as in his or her judgment may be necessary, appropriate, or desirable in order to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance. In particular and without limiting the foregoing:

(a) The Director of Finance may, in his or her discretion and without further action by the City Council, (i) issue requests for proposals for underwriting or financing facilities and execute engagement letters with underwriters, bond insurers or other financial institutions based on responses to such requests, (ii) change the Bond Registrar or Securities Depository for the Bonds; and (iii) take such actions on behalf of the City as are necessary or appropriate for the City to designate, qualify or maintain the tax-exempt treatment with respect to any Series issued as Tax-Exempt Bonds, to receive from the United States Treasury the applicable Tax Credit Subsidy Payments in respect of any Series issued as Tax Credit Subsidy Bonds and to otherwise receive any other federal tax benefits relating to the Bonds available to the City; and

(b) The Mayor and the Director of Finance are each separately authorized to execute and deliver (i) any and all contracts or other documents as are consistent with this ordinance and for which the City's approval is necessary or to which the City is a party (including but not limited to agreements with escrow agents, refunding

trustees, liquidity or credit support providers, providers of Bond Insurance or Reserve Securities, remarketing agents, underwriters, lenders, fiscal agents, Qualified Counterparties, custodians, and the Bond Registrar); and (ii) such other contracts or documents incidental to the issuance and sale of a Series; the establishment of the initial interest rate or rates on a Bond; or the tender, purchase, remarketing, or redemption of a Bond, as may in his or her judgment be necessary or appropriate.

Section 28. **Severability.** The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

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

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

Section 31. **Effective Date.** This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and signed by  
me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_

President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Edward B. Murray, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Monica Martinez Simmons, City Clerk

(Seal)

Attachments:

Exhibit A -Outstanding Drainage and Wastewater Parity Bonds

Exhibit B - Form of Undertaking to Provide Continuing Disclosure