

CITY OF EVERETT, WASHINGTON

ORDINANCE NO. 4083-25

AN ORDINANCE of the City of Everett, Washington, relating to the combined water, sanitary sewer, and storm and surface water drainage systems of the City (the "Water & Sewer System"); specifying, adopting and ordering the carrying out of a system or plan of additions to and betterments and extensions of the Water & Sewer System; providing for the issuance of one or more series of Water & Sewer Revenue bonds in an aggregate principal amount not to exceed \$181,000,000 for the purpose of providing funds necessary: (a) to pay or reimburse all or a portion of the costs of carrying out certain projects comprising a portion of the Plan of Additions, (b) to provide for meeting the debt service Reserve Requirement, if necessary, and (c) to pay the costs of issuance of the bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City's designated representative to approve the Sale Terms for the bonds; and providing for other related matters.

Passed March 19, 2025

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## TABLE OF CONTENTS

Section 1 .	Findings and Determinations .....	1
Section 2 .	Definitions.....	2
Section 3 .	Purpose and Authorization of the Bonds .....	12
Section 4 .	Description of Bonds; Appointment of Designated Representative .....	12
Section 5 .	Bond Registrar; Registration and Transfer of Bonds.....	12
Section 6 .	Form and Execution of Bonds. ....	13
Section 7 .	Payment of the Bonds .....	13
Section 8 .	Deposit and Use of Bond Proceeds.....	14
Section 9 .	Redemption Provisions and Purchase of Bonds.....	14
Section 10 .	Refunding or Defeasance of the Bonds.....	15
Section 11 .	Failure To Pay Bonds.....	16
Section 12 .	Pledge of Net Revenue and Lien Position .....	16
Section 13 .	Revenue Bond Fund; Payments into the Revenue Bond Fund .....	16
Section 14 .	Water & Sewer System Revenue Fund; Flow of Funds .....	18
Section 15 .	Coverage Stabilization Account.....	19
Section 16 .	Bond Covenants .....	19
Section 17 .	Provisions for Future Parity Bonds.....	22
Section 18 .	Separate Utility Systems.....	22
Section 19 .	Contract Resource Obligations .....	22
Section 20 .	Tax Covenants. ....	23
Section 21 .	Amendatory and Supplemental Ordinances.....	24
Section 22 .	Defaults and Remedies .....	25
Section 23 .	Sale and Delivery of the Bonds.....	28
Section 24 .	Official Statement; Continuing Disclosure. ....	29
Section 25 .	General Authorization and Ratification .....	29
Section 26 .	Severability .....	29
Section 27 .	Effective Date of Ordinance .....	29

## **EXHIBITS**

EXHIBIT A.....	OUTSTANDING PARITY BONDS AND SUBORDINATE DEBT
EXHIBIT B.....	PARITY CONDITIONS
EXHIBIT C.....	PARAMETERS FOR BOND SALE TERMS
EXHIBIT D.....	DESCRIPTION OF PROJECTS
EXHIBIT E.....	FORM OF CONTINUING DISCLOSURE UNDERTAKING

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BE IT ORDAINED BY THE CITY OF EVERETT as follows:

Section 1.     Findings and Determinations. The City Council makes the findings and determinations set forth below. Capitalized terms have the meanings given in Section 2 of this ordinance.

(a)     *Combined Water & Sewer System.* Pursuant to chapter 35.67 RCW, the City now owns, operates and maintains the Water & Sewer System, currently consisting of its existing water system, sanitary sewer system, and storm and surface water drainage system, as they now exist, and including any and all additions, extensions and betterments to any of the foregoing.

(b)     *Outstanding Parity Bonds.* The City's currently outstanding Parity Bonds payable from the Net Revenue are described in Exhibit A. The terms of the currently outstanding Parity Bonds permit the City to issue debt constituting a lien and charge upon the Net Revenue and ULID Assessments on parity with the lien and charge of the outstanding Parity Bonds if certain conditions (the "Parity Conditions") are met.

(c)     *Plan of Additions.* The City specifies, adopts and orders the carrying out of the Plan of Additions, including the Projects intended to be financed with the proceeds of the Bonds. The aggregate estimated total cost of the Projects is more than \$332 million. The City does not have available sufficient funds from current resources, grants, and Government Loans to pay the costs and is in need of funds with which to finance the remaining costs of the Projects. The Projects shall be carried out in accordance with the plans and specifications therefor prepared by the City's engineers and consulting engineers. The City Council may modify the details of the Projects where, in its judgment, it appears advisable if such modifications do not substantially alter the purposes of the Projects, or if such modifications provide funding to other elements described in the Plan of Additions, as then in effect. The cost of the Projects, including the cost of issuance and sale of the Bonds, shall be paid from the proceeds of the Bonds and from other money available to the Water & Sewer System, including current resources, grants and loans. The average expected useful life of the Projects exceeds the maximum maturity of the Bonds authorized herein.

(d) *Due Regard for Sufficiency of Gross Revenue.* The City Council finds and determines that the Gross Revenue and benefits to be derived from the operation and maintenance of the Water & Sewer System at the rates to be charged for services from the Water & Sewer System will be more than sufficient to meet all Costs of Maintenance and Operation and to permit the setting aside into the Revenue Bond Fund out of the Gross Revenue amounts sufficient to pay the principal of and interest on the Bonds and the outstanding Parity Bonds, when due. The City Council declares that in fixing the amounts to be paid into the Revenue Bond Fund under this ordinance it has exercised due regard for Costs of Maintenance and Operation and has not obligated the City to set aside and pay into the Revenue Bond Fund a greater amount of Gross Revenue of the Water & Sewer System than in its judgment will be available over and above such Costs of Maintenance and Operation.

(e) *Issuance and Sale of the Bonds.* For the purposes described in Section 3 of this ordinance, the City Council finds that it is in the best interests of the City and its ratepayers to issue and sell the Bonds pursuant to Sale Terms approved by the City's Designated Representative consistent with this ordinance.

## Section 2. Definitions.

(a) *Defined Terms.* As used in this ordinance, the following definitions shall apply unless a different meaning clearly appears from the context:

(1) *"Accreted Value"* means (1) with respect to any Capital Appreciation Bonds, as of any date of calculation, the sum of the amount set forth in the ordinance authorizing their issuance as the amount representing the initial principal amount of such Capital Appreciation Bonds plus the interest accumulated, compounded and unpaid thereon as of the most recent compounding date, or (2) with respect to bonds designated as "original issue discount bonds" in conjunction with their original issuance, as of the date of calculation, the amount representing the initial public offering price of such original issue discount bonds plus the amount of discounted principal that has accreted since the date of issue. In each case, the Accreted Value shall be determined in accordance with the provisions of the ordinance authorizing the issuance of such Capital Appreciation Bonds.

(2) *"Annual Debt Service"* means the total amount of Debt Service for any Parity Bond or series of Parity Bonds or other Subordinate Debt, depending on context, that is payable from Gross Revenue in any fiscal year or other Base Period. Annual Debt Service shall be calculated net of any federal subsidy legally available to pay the principal of or interest on those Parity Bonds (or other indebtedness) in the year of calculation. For purposes of calculating the Reserve Requirement, demonstrating satisfaction of the Rate Covenant, or delivering a certificate required by the Parity Conditions, calculations of Annual Debt Service shall include all Parity Bonds outstanding at the time of such calculation, excluding Subordinate Debt and those maturities of Parity Bond debt that have been or are to be redeemed or defeased as of the date of the calculation. If the calculation is performed in connection with the issuance of Future Parity Bonds, the calculation date may be deemed to be the issue date of such Future Parity Bonds.

(3) *"Assessment Bonds"* means the principal portion of any issue of Parity Bonds allocated to the financing of improvements within a ULID. The allocation shall be determined as of the issue date of each series of Parity Bonds (and as of any date on which any Parity Bonds are redeemed, defeased or purchased), and the total amount so allocated shall be equal to the principal amount of ULID Assessments on the final assessment roll for that ULID remaining unpaid as of that date. Assessment Bonds shall be allocated *pro rata* to each maturity within a series of Parity Bonds. Upon redemption, defeasance or purchase of all or a portion of a series of Parity Bonds that includes

an allocation of Assessment Bonds, the amount of Assessment Bonds remaining outstanding shall be reduced on a *pro rata* basis with bonds that are not deemed Assessment Bonds.

(4) “*Authorized Denomination*” means \$5,000 or any integral multiple thereof within a maturity of a Series unless otherwise specified by the Designated Representative in approving the Bond Sale Terms.

(5) “*Average Annual Debt Service*” means, as of its date of calculation, the sum of the Annual Debt Service for the applicable Base Period, depending on context, and the remaining years to the last scheduled maturity, divided by the number of those years. For purposes of computing the Reserve Requirement, the estimated amount of bonds to be redeemed prior to maturity may be taken into account if required under federal arbitrage regulations. Unless otherwise specified, Average Annual Debt Service for all outstanding Parity Bonds shall be calculated based on the aggregate Annual Debt Service of all Parity Bonds then outstanding, without regard to series.

(6) “*Balloon Maturity Bonds*” means any evidences of indebtedness of the City payable from Gross Revenue that are so designated pursuant to the ordinance authorizing such indebtedness to be incurred.

(7) “*Base Period*” means a fiscal year, calendar year, or Bond Year, depending on context. For purposes of a certificate delivered to demonstrate compliance with the Parity Requirement, “Base Period” means any consecutive 12-month period out of the 36-month period next preceding the date of issuance of the proposed Future Parity Bonds.

(8) “*Beneficial Owner*” means, with respect to a Bond or the Parity Bonds (depending on context), the owner of any beneficial interest in that Bond or Parity Bond.

(9) “*Bond*” means each bond issued pursuant to and for the purposes provided in this ordinance.

(10) “*Bond Counsel*” means the firm of Stradling Yocca Carlson & Rauth LLP, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(11) “*Bond Purchase Agreement*” means an offer to purchase a Series of the Bonds pursuant to certain Sale Terms, setting forth certain terms and conditions of the issuance, sale and delivery of such Series, which offer is authorized to be accepted by the Designated Representative on behalf of the City, consistent 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, and a certificate of the Designated Representative confirming the Sale Terms shall constitute the Bond Purchase Agreement for purposes of this ordinance.

(12) “*Bond Redemption Subaccount*” means the “Fund 401–Water & Sewer Utility Fund” created in the office of the Finance Director for the sole purpose of paying and securing the payment of the principal of, premium, if any, and interest on the Parity Bonds, including principal of Term Bonds due on scheduled mandatory redemption dates.

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

(14) “*Bond Registrar*” means the Fiscal Agent, or any successor bond registrar selected by the City.

(15) “*Book-Entry Form*” means a fully registered form in which physical bond certificates are registered only in the name of the Securities Depository (or its nominee), as

Registered Owner, with the physical bond certificates held by and immobilized in the custody of the Securities Depository (or its designee), where the system for recording and identifying the transfer of the ownership interests of the Beneficial Owners in those Bonds is neither maintained by nor the responsibility of the City or the Bond Registrar.

(16) “*Capital Appreciation Bonds*” means any series of Future Parity Bonds, all or a portion of the interest on which is compounded, accumulated, and payable only upon redemption or on the maturity date of such Capital Appreciation Bonds. A series of Future Parity Bonds may be deemed to be Capital Appreciation Bonds for only a portion of their term. Beginning on the date on which such Future Parity Bonds (or portion thereof) are no longer deemed to be Capital Appreciation Bonds, they shall be deemed outstanding in a principal amount equal to their Accreted Value.

(17) “*City*” means the City of Everett, Washington, a municipal corporation duly organized and legally existing as charter city of the first class under the laws of the State.

(18) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

(19) “*Code*” means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated from time to time thereunder.

(20) “*Common Reserve Subaccount*” means the subaccount previously created in the office of the Finance Director known as “Fund 401–Water & Sewer Utility Fund” and maintained for the purpose of securing the payment of the principal of and interest on the Covered Bonds.

(21) “*Construction Fund*” means the City’s Fund 336—Water/Sewer System Improvement Projects Fund or such other fund, subfund, or account within the Water & Sewer System Fund as may be designated by the Finance Director for paying or reimbursing the costs of carrying out the Projects and paying the costs of issuance of the Bonds.

(22) “*Contract Resource Obligation*” means an obligation of the City, designated as a Contract Resource Obligation in accordance with Section 19 of this ordinance, to make payments for water, sanitary sewer, and storm and surface water drainage system facilities, commodities, or services to another person or entity (including without limitation any Separate Utility System).

(23) “*Costs of Maintenance and Operation*” means all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expense with respect to the System, but excludes depreciation, payments for debt service or into Reserve Accounts, costs of capital additions to or replacements of the System, municipal taxes, or payments to the City in lieu of taxes.

(24) “*Coverage Stabilization Account*” means the account of that name maintained pursuant to Section 15 of this ordinance.

(25) “*Covered Bonds*” means the Outstanding Parity Bonds and such Future Parity Bonds as may be designated by the Designated Representative, pursuant to the ordinance authorizing their issuance, as Covered Bonds secured by the Common Reserve Subaccount. In approving the Sale Terms for the Bonds (or any Series of the Bonds), the City’s Designated Representative is authorized to designate the Bonds as Covered Bonds if it appears to such official that such designation is in the best interests of the City and its ratepayers.

(26) “*Credit Facility*” means policy of municipal bond insurance (including Qualified Insurance), a letter of credit, surety bond, line of credit, guarantee, or other financial instrument (which may be a Qualified Reserve Security) or any combination of the foregoing, which

obligates a third party to make payment or provide funds for the payment of financial obligations of the City. There may be one or more Credit Facilities outstanding at any time.

(27) “*Debt Service*” on Parity Bonds means, for any period of time:

(i) With respect to any outstanding Capital Appreciation Bonds that are not designated as Balloon Maturity Bonds, the principal amount shall be equal to the Accreted Value thereof maturing or scheduled for redemption in such period, and the interest payable during such period;

(ii) With respect to any outstanding Fixed Rate Bonds, an amount equal to (A) the principal amount of such Fixed Rate Bonds due or subject to mandatory redemption during such period and for which no sinking fund installments have been established, plus (B) the amount of any payments required to be made during such period into any sinking fund established for the payment of any such Fixed Rate Bonds, plus (C) all interest payable during such period on any such outstanding Fixed Rate Bonds and with respect to Fixed Rate Bonds with mandatory sinking fund requirements, calculated on the assumption that mandatory sinking fund installments will be applied to the redemption or retirement of such Fixed Rate Bonds on the date specified in the ordinance authorizing such Fixed Rate Bonds; and

(iii) With respect to all other series of Parity Bonds other than Fixed Rate Bonds or Capital Appreciation Bonds, specifically including but not limited to Balloon Maturity Bonds and Parity Bonds bearing variable rates of interest, an amount for any period equal to the amount which would have been payable for principal and interest on such Parity Bonds during such period computed to provide for essentially level annual debt service of principal and interest over such period, using the following assumptions:

(A) The principal amount of such bonds, as of the date of such computation, shall be amortized in accordance with the mandatory redemption provisions, if any, approved by the City in conjunction with the issuance of such Parity Bonds or, if mandatory redemption provisions are not provided, during a period commencing on the date of computation and ending on the date 30 years after the date of issuance; and

(B) The interest rate for the Base Period utilized in such calculation shall be determined as follows: (I) if such bonds have been outstanding for at least 12 months as of the date of calculation, assume that the such bonds bear interest at the higher of (i) the actual rate borne by those bonds on the date of calculation, or (ii) the average rate borne by the Parity Bonds over the 12 months immediately preceding the date of calculation; and (II) if such bonds have been outstanding for less than 12 months (or are not yet outstanding) as of the date of calculation, assume that the such bonds bear interest at the higher of (i) the actual rate borne by such bonds on the date of calculation, or (ii)(a) for Tax-Exempt Bonds, the average rate set forth on the Securities Industry and Financial Markets Association Municipal Swap Index over the 12-month period immediately preceding the date of calculation, or (b) for Taxable Bonds, the average rate on direct obligations of (or obligations unconditionally guaranteed by) the United States of America over the 12 months immediately preceding the date of calculation, with maturities comparable to the rate reset period for such Taxable Bonds.

(iv) In addition, Debt Service on Parity Bonds shall be calculated net of any principal and/or interest funded out of proceeds of Parity Bonds; shall include reimbursement obligations to providers of Credit Facilities to the extent authorized by ordinance, and shall exclude the payments required to be made with respect to revenue bond anticipation notes to the extent that

the City has provided in conjunction with their issuance that the bond anticipation notes will be funded with the proceeds of Future Parity Bonds.

(28) “*Designated Representative*” means the officer of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).

(29) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(30) “*Finance Director*” means the person who holds the office of Finance Director of the City, or such successor officer as may be charged with carrying out all or substantially all of the duties of the office of Finance Director-Treasurer under the City Charter.

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

(32) “*Fixed Rate Bonds*” means those Parity Bonds with respect to which the rate of interest is fixed and determinable through their final maturity or for a specified period of time. If so provided, Parity Bonds may be deemed to be Fixed Rate Bonds for only a portion of their term.

(33) “*Future Parity Bond Authorizing Ordinance*” means an ordinance of the City authorizing the issuance of Future Parity Bonds.

(34) “*Future Parity Bonds*” means any and all revenue bonds or other obligations of the Water & Sewer System issued or incurred after the Issue Date of the Bonds, the payment of the principal of and interest on which constitutes a charge or lien on the Net Revenue and ULID Assessments equal in rank with the charge and lien upon such revenue and assessments required to be paid into the Revenue Bond Fund to pay and secure the payment of the principal of and interest on the Bonds and the Outstanding Parity Bonds.

(35) “*Government Loans*” means any State or federal loans entered into at any time that are payable by the City solely from the Net Revenue of the Water & Sewer System on a basis subordinate to the lien and charge of the Parity Bonds and constituting Subordinate Debt. The currently outstanding Government Loans are identified in Exhibit A.

(36) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended, and which are otherwise legal investments of the City at the time of such investment.

(37) “*Gross Revenue*” or “*Revenue of the System*” means all of the earnings and revenues received by the City from the maintenance and operation of the Water & Sewer System; connection and capital improvement charges collected for the purpose of defraying the cost of capital facilities of the Water & Sewer System; except as excluded below, investment earnings and income from investments of money in the Revenue Fund and the Revenue Bond Fund or from any other investment of Gross Revenue; and any federal or state reimbursements of operating expenses to the extent such expenses are included as Costs of Maintenance and Operation. Gross Revenue shall exclude: (i) federal or state grants, and gifts from any source allocated to capital projects; (ii) proceeds from the sale of Water & Sewer System property; (iii) City taxes collected by or through the System; (iv) principal proceeds of bonds (and earnings on such proceeds) invested in a trust, defeasance, or escrow fund created to defease or refund System obligations (until commingled with other earnings and revenues of the System) or held in a special account for the purpose of paying a rebate to the United States Government under the Code; (v) local improvement district assessments including ULID Assessments; (vi) income and revenue which may not legally be pledged for revenue



bond debt service; (vii) payments under bond insurance or any other credit enhancement policy or device; (viii) insurance or condemnation proceeds used for the replacement of capital projects or equipment; and (ix) unless declined by a written election by the City's Designated Representative, any federal subsidy legally available to pay the principal of or interest on Parity Bonds. For purposes of determining compliance with the Rate Covenant, amounts withdrawn from the Coverage Stabilization Account shall increase the Gross Revenue for the period in which they are withdrawn, and amounts deposited in the Coverage Stabilization Account shall reduce Revenue for the period during which they are deposited. Credits to or from the Coverage Stabilization Account that occur within 90 days after the end of a fiscal year may be treated as occurring within such fiscal year. If the City creates a Separate Utility System in accordance with Section 18 of this ordinance, revenue from such Separate Utility System shall be excluded from Gross Revenue.

(38) "*Independent Consultant*" means a professional, independent consultant experienced with municipal utilities of comparable size and character to the Water & Sewer System and in such areas as are relevant to the purpose for which he or she is being retained. Such a consultant shall be deemed independent if he or she is not an employee or officer of the City.

(39) "*Issue Date*" means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(40) "*Letter of Representations*" means the Blanket Issuer Letter of Representations between the City and DTC on file with DTC, and any successor or substitute letter relating to the operational procedures of the Securities Depository.

(41) "*Maximum Annual Debt Service*" means, as of the date of calculation, the highest amount of Annual Debt Service that will come due in any fiscal year or Base Period for all outstanding Parity Bonds and, if required by context, for all Subordinate Debt.

(42) "*MSRB*" means the Municipal Securities Rulemaking Board.

(43) "*Municipal Advisor*" means PFM Financial Advisors LLC, or any other Municipal Advisor then appointed and acting as financial advisor to the City.

(44) "*Net Revenue*" means Gross Revenue, less Costs of Maintenance and Operation.

(45) "*Official Statement*" means an offering document, disclosure document, private placement memorandum or substantially similar disclosure document provided to purchasers and potential purchasers in connection with the initial offering of a Series of the Bonds in conformance with Rule 15c2-12 or other applicable regulations of the SEC.

(46) "*Outstanding Parity Bonds*" means those Parity Bonds that are outstanding at a given time. As of the date of this ordinance, the Outstanding Parity Bonds are identified in Exhibit A.

(47) "*Owner*" means, without distinction, the Registered Owner and the Beneficial Owner of a Bond or of a Parity Bond, depending on context.

(48) "*Parity Bond Authorizing Ordinance*" means any ordinance authorizing the issuance of one or more series of Parity Bonds, including the ordinances identified in Exhibit A, this ordinance, and any Future Parity Bond Authorizing Ordinance.

(49) "*Parity Bonds*" means the Outstanding Bonds, the Bonds, and any Future Parity Bonds that may be issued in accordance with the Parity Conditions.

(50) “*Parity Conditions*” means the conditions for the issuance of Future Parity Bonds set forth in Exhibit B of this ordinance, which is incorporated by this reference.

(51) “*Parity Covenant Date*” means the date on which the Outstanding Parity Bonds described on Exhibit A to this ordinance (namely, the outstanding portions of the City’s Water & Sewer Revenue Bonds, 2013; Water & Sewer Revenue Bonds, 2015; Water & Sewer Revenue Refunding Bonds, 2016; and Water & Sewer Revenue and Refunding Bonds, 2023) are fully defeased or redeemed.

(52) “*Parity Requirement*” has the meaning given in the Parity Conditions set forth in Exhibit B of this ordinance and incorporated by this reference.

(53) “*Permitted Investments*” means any investment that, at the time of such investment, is permitted as legal investment for City funds under State law.

(54) “*Plan of Additions*” means the system or plan of additions and improvements to and betterments and extensions of the Water & Sewer System, described under the heading Comprehensive Plans, as set forth in the Comprehensive Sewer and Surface Water Plans of the City adopted and in effect from time to time (most recently, approved in the City’s Comprehensive Sewer Plan, dated December 17, 2014; and 2022 Surface Water Comprehensive Plan, dated March 30, 2022. The Plan of Additions also includes, but is not limited to, the Projects.

(55) “*Projects*” means those projects described in Exhibit D, or any other projects comprising a portion of the Plan of Additions. The City Council reserves the right to amend this ordinance to make such changes in or additions to the Projects (including changes to the construction or design of other facilities of the System) as may be found necessary or desirable. The Projects shall include acquisition by purchase, lease, or condemnation of all real or personal property, including any interest, right-of-way, or easement that may be found necessary to acquire, construct, install, or otherwise undertake the Projects. Incidental costs incurred in connection with carrying out and accomplishing the Projects, consistent with RCW 39.46.070, may be included as costs of the Projects.

(56) “*Purchaser*” means a corporation, firm, association, partnership, trust, bank, financial institution, or other legal entity or group of entities selected by the Designated Representative to serve as purchaser in a private placement, to serve as underwriter in a negotiated sale, or otherwise awarded as the successful bidder in a competitive sale of any Series of the Bonds.

(57) “*Qualified Insurance*” means any non-cancelable municipal bond insurance policy or surety bond issued by an insurance company licensed to conduct an insurance business in any state of the United States (or by a service corporation acting on behalf of one or more such insurance companies) which issuer, as of the time of issuance of such policy or surety bond, is rated in one of the two highest rating categories by any Rating Agency (e.g., Aaa or Aa), without regard to gradation within a category.

(58) “*Qualified Reserve Security*” means any Qualified Insurance or other Credit Facility (which may be in the form of reserve insurance, reserve surety, collateral, security, letter of credit, guaranty, surety bond, or similar credit enhancement device) providing for or securing the payment of all or part of the principal of and interest on Parity Bonds, issued by an institution which has been assigned a credit rating by a Rating Agency, at the time that such Reserve Security is obtained by the City, in one of the two highest rating categories (e.g., Aaa or Aa), without regard to gradations within those categories.

(59) “*Rate Covenant*” means, for any fiscal year (or other Base Period, as applicable by context), an amount of Net Revenue at least equal to 1.25 times the Annual Debt Service in that year on all Parity Bonds outstanding as of the calculation date, subtracting from Annual Debt Service the amount of ULID Assessments collected in such year in respect of Assessment Bonds. In determining compliance with the Rate Covenant, (i) Gross Revenue and Costs of Maintenance and Operation used to calculate Net Revenue may be adjusted, regardless of then applicable generally accepted accounting principles, for certain items (e.g., to omit unrealized gains or losses in investments) to more fairly reflect the Water & Sewer System’s annual operating performance; (ii) absent a written election by a Designated Representative to the contrary, Debt Service shall be calculated net of any Tax Credit Subsidy or other federal subsidy legally available to pay the principal of or interest on Parity Bonds in the year of calculation; and (iii) Debt Service shall exclude the payments required to be made with respect to revenue bond anticipation notes to the extent that the City provided in conjunction with their issuance that such bond anticipation notes would be funded with the proceeds of Future Parity Bonds.

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

(61) “*Record Date*” means the Bond Registrar’s close of business on the 15th day of the month preceding an interest payment date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar’s close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9 of this ordinance.

(62) “*Registered Owner*” means, with respect to a Bond or the Parity Bonds (depending on context), the person in whose name that Bond is registered on the Bond Register. With respect to any Parity Bonds held in Book-Entry Form, Registered Owner shall mean the Securities Depository.

(63) “*Reserve Account*” means, as determined by context, the Common Reserve Subaccount created to secure payment of the Covered Bonds, and/or any other reserve subaccount created to secure payment of one or more Series of Parity Bonds.

(64) “*Reserve Requirement*” means a dollar amount to be calculated as follows:

(i) With respect to the Covered Bonds secured by the Common Reserve Subaccount, the Reserve Requirement shall be equal to the least of: (A) Maximum Annual Debt Service for all Covered Bonds, (B) 10% of the outstanding principal amount of each series of Covered Bonds then outstanding, and (C) 125% of Average Annual Debt Service for all Covered Bonds. In conjunction with the issuance of a series of Future Parity Bonds that are Covered Bonds, the dollar amount required to be contributed, if any, shall not be greater than the Tax Maximum and shall approved by the Finance Director in approving the Sale Terms for such Parity Bonds at an amount equal to the incremental amount needed to bring the balance in the Common Reserve Subaccount (or the subaccount therein securing the Covered Bonds) to the amount calculated in the preceding sentence, and may, in the Finance Director’s discretion, take into account the maximum amount payable under any Qualified Reserve Security. Once calculated, the Reserve Requirement shall remain in effect until the earlier of (i) at the City’s option, a payment of principal of Covered Bonds, or (ii) upon the issuance of a subsequent series of Future Parity Bonds that are Covered Parity Bonds.

(ii) With respect to any series of Parity Bonds that are not Covered Bonds, the Reserve Requirement (if any) shall be equal to the amount specified by the Finance Director in approving the Sale Terms for such Parity Bonds, which amount (if any) shall be deposited

and maintained in a subaccount within the Revenue Bond Fund that is held separate from the Common Reserve Subaccount securing the Covered Bonds.

(65) “*Revenue Bond Fund*” means, together, (i) the Bond Redemption Subaccount and (ii) the Common Reserve Subaccount.

(66) “*Revenue of the System*” means Gross Revenue.

(67) “*Revenue Fund*” means the Water & Sewer System Revenue Fund.

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

(69) “*Sale Terms*” means the terms and conditions for the sale of a Series of the Bonds including but not limited to 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. The parameters for certain Sale Terms are set forth in Exhibit C.

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

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

(72) “*Separate Utility System*” means any water, sanitary sewer, and storm and surface water drainage systems, or other utility service or facilities that may be created, acquired or constructed by the City as provided in Section 18 of this ordinance.

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

(74) “*State*” means the State of Washington.

(75) “*Subordinate Debt*” means any obligation of the Water & Sewer System that is payable from Net Revenue on a basis that is junior and inferior to the lien and charge on the Net Revenue in respect of the Parity Bonds.

(76) “*System*” means the Water & Sewer System.

(77) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in in chapter 3.18 of the Everett Municipal Code and in this ordinance.

(78) “*Tax Credit Subsidy Bond*” means any bond that is designated by the City as a type of tax credit bond authorized under the Code and which is further designated as a “qualified bond” under provisions of the Code providing for “direct-pay” tax credit bonds.

(79) “*Tax Credit Subsidy Payment*” means the federal subsidy amounts that may be requested as a tax credit payable by the United States Treasury in respect of any bonds issued as Tax Credit Subsidy Bonds.

(80) “*Tax Maximum*” means the maximum dollar amount permitted by the Code, to be allocated to a debt service Reserve Account from bond proceeds without requiring the balance to be invested at a restricted yield.

(81) “*Term Bond*” means a Parity Bond designated as a Term Bond and subject to mandatory redemption in the years and amounts set forth in the relevant Bond Purchase Agreement.

(82) “*ULID*” means any utility local improvement district now existing or hereafter created for the acquisition or construction of additions, extensions, or betterments of any portion of the Water & Sewer System, which additions, extensions, or betterments are financed through the issuance of Parity Bonds and the assessments in which are payable into the Revenue Bond Fund. As used in this ordinance, the term *ULID* does not include any utility local improvement district created for the financing of additions, extensions, or betterments by methods other than the issuance of Parity Bonds.

(83) “*ULID Assessments*” means the assessments levied in any *ULID*, including installment payments of any assessment as well as the interest and penalties (if any) thereon, less any prepaid assessments permitted by law to be paid into a construction fund or account.

(84) “*Undertaking*” means the written undertaking to provide continuing disclosure executed by the Finance Director pursuant to Section 24 of this ordinance in order to permit the underwriter or successful bidder for the Bonds to comply with Rule 15c2-12.

(85) “*Water & Sewer System*” consists of the water, sanitary sewer, and storm and surface water drainage systems of the City, as set forth in Section 14.16.010 of the Everett Municipal Code, including (1) the sanitary sewage collection and treatment system of the City, including facilities for the collection and disposal of storm water runoff, (2) the existing water supply and distribution system of the City, including the interest of the City in the water supply facilities constructed by Public Utility District No. 1 of Snohomish County pursuant to the Sultan River Project Agreement, as the foregoing Water & Sewer Systems now exist and together with all additions thereto and betterments and extensions thereof at any time made, and (3) including any other Water & Sewer Systems hereafter combined with the Water & Sewer System by ordinance of the City Council.

(86) “*Water & Sewer System Revenue Fund*” or “*Revenue Fund*” means that special fund of the City created by Section 6 of Ordinance No. 536-78, now known as “Fund 401—Public Works—Utilities” and shall include all cash and accounts therein.

(b) *Rules of Interpretation.* In this ordinance, unless the context otherwise requires:

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

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

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

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

(5) All references herein to sections and other subsections or clauses are to the corresponding sections, subsection, or clauses hereof.

Section 3. Purpose and Authorization of the Bonds . For the purpose of (a) paying or reimbursing the costs of all or a portion of the costs of carrying out the Projects, (b) providing for meeting the debt service Reserve Requirement, if necessary, and (c) paying the costs of issuance of the Bonds, the City is authorized to issue Water & Sewer Revenue Bonds in one or more series in an aggregate principal amount not to exceed \$181,000,000. The proceeds of the Bonds shall be deposited as set forth in Section 8 of this ordinance and shall be allocated to paying the respective costs of the Projects in such order of time as the City determines is advisable and practicable.

Section 4. Description of Bonds; Appointment of Designated Representative; Parity Certificate. The Finance Director is appointed to act as the Designated Representative of the City and is authorized and directed to conduct the sale of the Bonds in one or more Series, in the manner and upon the terms deemed most advantageous to the City, and to approve the Bond Sale Terms of each Series of the Bonds, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit C, which is attached to this ordinance and incorporated by this reference. As a condition to delivery of the Bonds as Parity Bonds, the Designated Representative shall find, to such official's satisfaction, that the Parity Conditions as set forth in Ordinance Nos. 3313-13, 3518-16, and 3946-23 have been met or complied with.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

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

(b) *Bond Registrar; Duties*. The Fiscal Agent is appointed as initial Bond Registrar. 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 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 System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on each Bond. The Bond Registrar may become an Owner 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.

(c) *Bond Register; Transfer and Exchange*. The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds in any Authorized Denomination of an equal aggregate principal amount and of the same Series, interest rate and maturity. A Bond 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 any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form*. If a Bond is to be issued in book-entry form, DTC shall be appointed as initial Securities Depository and each such Bond initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Bond registered in the name of the Securities Depository shall be held fully immobilized in book-entry only form by the Securities Depository in accordance with the provisions of the Letter of Representations. Registered ownership of any Bond registered in the name of the Securities Depository may not be transferred except: (i) to

any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Bond is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or (ii) the City terminates the services of the Securities Depository, the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond may be transferred to any person as provided in this ordinance. Neither the City nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

Section 6. Form and Execution of Bonds.

(a) *Form of Bond; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the City Clerk, 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. 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 such officer's manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond nevertheless may be authenticated, issued and delivered 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 its Issue Date.

(b) *Authentication.* Only a Bond bearing a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall it be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate of Authentication. This Bond is one of the fully registered City of Everett, Washington, Water & Sewer Revenue Bonds, 2025 [Series \_\_\_\_]." 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.

Section 7. Payment of the Bonds. Principal of and interest on each Bond shall be payable in lawful money of the United States of America. 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 on or 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.      Deposit and Use of Bond Proceeds.

(a)      *Construction Fund Deposit; Investment and Use of Proceeds.* The proceeds of the Bonds, less the amount necessary to satisfy the Reserve Requirement applicable to the Bonds (if any) as set forth in subsection (b), shall be deposited in the Construction Fund and be used to pay the costs of issuance and sale of the Bonds and the costs of carrying out the Projects. Until needed to pay such costs, the City may invest those proceeds temporarily in any Permitted Investment, and the investment earnings shall be retained in the Construction Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement may be withdrawn from the Construction Fund and used for those tax or rebate purposes.

Implementation or completion of any specified Project shall not be required if the City determines that, due to substantially changed circumstances, it has become advisable or impractical. If the Projects are completed (or their completion duly provided for) by another source of funds, or if their completion found to be impractical, the City may apply the Bond proceeds or any portion thereof or to other improvements to the Water & Sewer System, as the City Council in its discretion may direct. If the Bond proceeds, plus other legally available funds, are insufficient to accomplish all of the Projects, the City may use the available funds for paying the cost of such portion of the Projects deemed by the Council most necessary and in the best interest of the City.

(b)      *Reserve Requirement.* On the Issue Date, if the Finance Director designates the Bonds as Covered Bonds, proceeds of the Bonds in an amount (if any) necessary to satisfy the Reserve Requirement in the manner and time as determined by the Finance Director and approved in the Sale Terms, may be deposited into the Common Reserve Subaccount or, in the discretion of the Finance Director, into a separate reserve subaccount created to secure the Bonds. In the Finance Director's discretion, the Finance Director may create such additional reserve subaccounts within the Revenue Bond Fund as may be required in respect of a series of Parity Bonds that are not Covered Bonds (if any).

Section 9.      Redemption Provisions and Purchase of Bonds.

(a)      *Optional Redemption.* Each Series of the Bonds shall be subject to redemption at the option of the City on terms acceptable to the Designated Representative, as set forth in the Bond Purchase Agreement, consistent with the parameters set forth in Exhibit C.

(b)      *Mandatory Redemption.* Each Bond that is designated as a Term Bond in the Bond Purchase Agreement, except as set forth below, shall be called for redemption at a price equal to the stated principal amount to be redeemed, plus accrued interest, on the dates and in the amounts as set forth in the Bond Purchase Contract. If a Term Bond is redeemed under the optional redemption provisions, defeased or purchased by the City and surrendered for cancellation, the principal amount of the Term Bond so redeemed, defeased or purchased (irrespective of its actual redemption or purchase price) shall be credited against one or more scheduled mandatory redemption installments for that Term Bond. The City shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation prior to the earliest mandatory redemption date for that Term Bond for which notice of redemption has not already been given.

(c)      *Selection of Bonds for Redemption; Partial Redemption.* If fewer than all of the outstanding Bonds within a Series are to be redeemed at the option of the City, the City shall select the Series and 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.

(d) *Notice of Redemption.* Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Bond, unless waived by the Registered Owner, shall be given by the Bond Registrar 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 at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under the Undertaking), to each Rating Agency, and to such other persons and with such additional information as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Optional Redemption Notice.* In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption 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 so rescinded shall be of no effect, and each Bond for which a notice of optional redemption has been rescinded shall remain outstanding.

(f) *Effect of Redemption.* Interest on each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to effect such redemption is not on deposit in the Revenue Bond Fund or in a trust account established to refund or defease the Bond.

(g) *Purchase of Bonds.* The City reserves the right 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 10. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the "Defeased Bonds"); (b) redeeming the Defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the Defeased Bonds in accordance with their terms, then all right and interest of the Owners of the Defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the Defeased Bonds shall cease and become void. Thereafter, the Owners of Defeased Bonds shall have the right to receive payment of the principal of and interest on the Defeased Bonds solely from the trust account and the Defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the Defeased Bonds to any lawful purpose. Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or

defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 11. Failure To Pay Bonds. If the principal of any Bond is not paid when the Bond is properly presented at its maturity or date fixed for redemption, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or date fixed for redemption until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Revenue Bond Fund, or in a trust account established to refund or defease the Bond, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 12. Pledge of Net Revenue and Lien Position. The Net Revenue and ULID Assessments are pledged irrevocably to the payment of the amounts required to be paid into the Revenue Bond Fund for the payment of the Bonds. The amounts so pledged to be paid into the Revenue Bond Fund from the Water & Sewer System Revenue Fund are hereby declared to be a lien and charge upon the Gross Revenue junior in lien to the Costs of Maintenance and Operation and equal to the lien of the charges upon such Net Revenue and ULID Assessments that have heretofore been made to pay and secure the payment of the principal of and interest on the Outstanding Parity Bonds and which may hereafter be made upon the Net Revenue and ULID Assessments to pay and secure the payment of the principal of and interest on any Future Parity Bonds, and prior and superior to all other charges of any kind or nature whatsoever.

Section 13. Revenue Bond Fund; Payments into the Revenue Bond Fund.

(a) *Payments into Revenue Bond Fund.* The Revenue Bond Fund has previously been created in the office of the Finance Director and is composed of two subaccounts: the Bond Redemption Subaccount and the Common Reserve Subaccount. The Finance Director may create such additional accounts and subaccounts as may be convenient for the payment of the Parity Bonds and incorporate them as part of the Revenue Bond Fund, so long as the maintenance of such accounts does not conflict with the rights of the Owners of Parity Bonds.

(1) So long as any Parity Bonds are outstanding, the City covenants that all ULID Assessments (if any) shall be paid into the Revenue Bond Fund and that the City shall set aside and pay into the Revenue Bond Fund out of the Net Revenue, certain fixed amounts without regard to any fixed proportion, namely:

(i) Into the Bond Redemption Subaccount, on or before each interest (or principal and interest) payment date, an amount that will be sufficient, together with ULID Assessments and other money then on deposit therein, to pay the interest on and principal of (if any) the Parity Bonds then coming due and payable, including mandatory redemption amounts with respect to Term Bonds; and

(ii) Into the Common Reserve Subaccount (and into any separate reserve subaccount, if any, created in respect of any Parity Bonds that are not Covered Bonds), an amount necessary to satisfy the Reserve Requirements applicable to Bonds secured by such subaccounts in the time and manner required pursuant to subsection (c) of this section.

(2) When the total amount in the subaccounts in Revenue Bond Fund that are pledged to payment of the Parity Bonds equals the total amount of principal and interest with respect to all outstanding Parity Bonds to the last maturity thereof, no further payment need be made into those subaccounts in the Revenue Bond Fund.

(b) *Bond Redemption Subaccount.* For so long as any Parity Bonds are outstanding, the City covenants to maintain the Bond Redemption Subaccount for the payment of the Parity Bonds and to make deposits therein as set forth in subsection (a), above. If there is a deficiency in the Bond Redemption Subaccount to make the next upcoming payment of either principal or interest, that deficiency shall be made up from the Common Reserve Subaccount by the withdrawal of amounts necessary for that purpose.

(c) *Reserve Requirement.*

(1) *Designation as Covered Bonds and Establishment of Reserve Requirement.* In connection with the issuance of the Bonds and approval of the Sale Terms, the Finance Director shall determine whether to designate the Bonds (i) as Covered Bonds secured by the Common Reserve Subaccount, (ii) as Parity Bonds secured by a separate reserve subaccount, or (iii) as Parity Bonds not secured by a reserve subaccount. If the Bonds are not designated as Covered Bonds, any separate Reserve Requirement (if any) shall be established in the Bond Sale Terms set forth in the Bond Purchase Agreement.

(2) *Covered Bonds; Maintenance of Common Reserve Subaccount.* If the Finance Director determines to designate the Bonds as Covered Bonds, then for so long as the Bonds are outstanding, the City shall be required to maintain a balance in the Common Reserve Subaccount (including the value of all Reserve Securities held therein) at least equal to the Reserve Requirement, except for withdrawals as authorized in this subsection. The Reserve Requirement may be maintained by holding cash (which may be invested as set forth below), one or more Qualified Reserve Securities, Qualified Insurance, or a combination of the foregoing. In computing the amount on hand in the Common Reserve Subaccount, Qualified Reserve Securities or Qualified Insurance shall be valued at the face amount thereof. All other obligations purchased as an investment of money held in such subaccount shall be valued at cost. As used herein, the term "cash" shall include U.S. currency, cash equivalents, and evidences thereof, including demand deposits and certified or cashier's checks. The deposit to the Common Reserve Subaccount may be satisfied initially by the transfer of qualified investments to such subaccount. In the event of any cancellation or termination of a Qualified Reserve Security or Qualified Insurance, the Common Reserve Subaccount shall be funded as if the Covered Bonds that remain outstanding on the date of such notice of cancellation or termination had been issued on that date. If the Bonds are designated as Covered Bonds, the Reserve Requirement must be satisfied in connection with the issuance of the Bonds and any Future Parity Bonds that are Covered Bonds, by any combination of: (i) a deposit of Bond proceeds on the issue date; (ii) the purchase of one or more Qualified Reserve Securities or Qualified Insurance on the issue date; and (iii) the deposit of Net Revenue, ULID Assessments, or other legally available money of the City in approximately equal annual installments (made no later than December 20 of each year) so that the Reserve Requirement is funded no later than five years after the issue date of the Bonds or of such Future Parity Bonds, as applicable.

(3) *Withdrawals from and Replenishment of Debt Service Reserve Subaccount(s).* On any principal or interest payment date in which there is a deficiency in the Bond Redemption Subaccount in respect of any Parity Bonds secured by the Common Reserve Subaccount or by a separate reserve subaccount, amounts sufficient to make up that deficiency shall be withdrawn from the Common Reserve Subaccount (or from the separate reserve subaccount, if applicable) (including by a draw on a Qualified Reserve Security or Qualified Insurance, if any) and shall be transferred to the Bond Redemption Subaccount. If, by reason of such withdrawal, the balance remaining in such reserve subaccount is insufficient to meet the Reserve Requirement for the Covered Bonds (or the reserve requirement established to secure Parity Bonds that are not Covered Bonds), such deficiency shall then be made up from the next available payments of Net Revenue and ULID Assessments after

making necessary provision for the required payments into the Bond Redemption Subaccount. Except for withdrawals described above, the money in the Common Reserve Subaccount (and in any other reserve subaccount that may be established) otherwise shall be held intact and may be applied against the last outstanding Parity Bonds. However, if at any time the Common Reserve Subaccount (or any subaccount) is fully funded, money in excess of the applicable Reserve Requirement shall be withdrawn and deposited, first, in any other subaccount having a deficiency in its Reserve Requirement, and second, at the option of the Finance Director, either in the Bond Redemption Subaccount and spent for the purpose of retiring Parity Bonds, or in into the Water & Sewer System Revenue Fund and spent for other lawful system purposes.

(d) *Investment of Money Deposited in Revenue Bond Fund.* All money in the Revenue Bond Fund may be kept in cash or shall be invested in Permitted Investments maturing not later than the date when needed (for investments in the Bond Redemption Subaccount) or the last maturity of any outstanding Parity Bonds (for investments in the Common Reserve Subaccount or other reserve subaccount). Income from investments in the Bond Redemption Subaccount shall be retained in and used for the purposes of that subaccount. Income from investments in the Common Reserve Subaccount (or other reserve subaccount) shall be retained in and used for the purposes of that subaccount until the amount therein is equal to the applicable Reserve Requirement, and thereafter shall be deposited in the Bond Redemption Subaccount or used for other Water & Sewer System purposes.

(e) *Action to Compel Payments.* The City may transfer any money from any funds or accounts of the System legally available therefor, except bond redemption funds, refunding escrow funds, or defeasance funds, to meet the required payments to be made into the Revenue Bond Fund. If the City fails to set aside and pay into the Revenue Bond Fund the amounts set forth above, the owner of any of the outstanding Parity Bonds may bring action against the City and compel the setting aside and payment, consistent with the rights and remedies set forth in Section 22 of this ordinance.

#### Section 14. Water & Sewer System Revenue Fund; Flow of Funds.

(a) *Revenue Fund.* The Water & Sewer System Revenue Fund has previously been established as a special fund of the City into which shall be deposited the Gross Revenue as collected, except the interest earned and income derived from investments of money in the Revenue Bond Fund and the accounts therein. The Water & Sewer System Revenue Fund shall be held separate and apart from all other funds and accounts of the City. Money in the Revenue Fund may be invested by the City in any investment that is a legal investment for the City.

(b) *Flow of Funds.* So long as any Parity Bonds are outstanding, the City covenants that all ULID Assessments (if any) shall be paid into the Revenue Bond Fund, and the Gross Revenue shall be deposited into the Water & Sewer System Revenue Fund to be used for the following purposes only in the following order of priority:

- (1) To pay the Costs of Maintenance and Operation;
- (2) To make when due the required payments into the Bond Redemption Subaccount in respect of interest on the Parity Bonds, including reimbursements to the issuer of a Credit Facility if the Credit Facility secures the payment of interest on Parity Bonds and the ordinance authorizing such Parity Bonds provides for such reimbursement;
- (3) To make when due the required payments into the Bond Redemption Subaccount in respect of principal of (and premium on, if any) the Parity Bonds at maturity and on

mandatory redemption dates with respect to Term Bonds, and to pay all reimbursements due to the issuer of a Credit Facility if the Credit Facility secures the payment of principal of Parity Bonds and the ordinance authorizing such Parity Bonds provides for approval of Bond Sale Terms authorizing such reimbursement;

(4) To make all payments required to be made into any sinking fund account hereafter created (exclusive of payments made into the Bond Redemption Subaccount in respect of mandatory redemption payments then due) to provide for the payment of the principal of Term Bonds or Balloon Maturity Bonds;

(5) To make all payments required to be made into the Common Reserve Subaccount for Covered Bonds (and to any reserve subaccount that may be created in the future to secure payment of debt service on Parity Bonds that are not Covered Bonds), including reimbursements to the issuer of a Qualified Reserve Security utilized to satisfy the Reserve Requirement for the Covered Bonds (or for a series of Parity Bonds secured by a separate reserve subaccount) and the ordinance authorizing such Parity Bonds provides for approval of Bond Sale Terms authorizing such reimbursement;

(6) To make all payments required to be made into any revenue debt redemption fund, debt service account, Reserve Account, or sinking fund account created to pay and secure the payment of the principal of and interest on Subordinate Debt, including Government Loans and any revenue bonds, revenue warrants, or other revenue obligations of the City having a lien upon the Net Revenue junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds

(7) For any of the following purposes without priority: (i) to retire by redemption or to purchase in the open market any outstanding obligations of the Water & Sewer System; (ii) to make necessary betterments and replacements of or repairs, additions or extensions to the Water & Sewer System; (iii) to make deposits into the Coverage Stabilization Account; or (iv) for any other lawful City purpose.

Section 15. Coverage Stabilization Account. The Finance Director is hereby authorized to create a Coverage Stabilization Account within the Revenue Fund at the option of the Finance Director. The City hereby determines that the maintenance of a Coverage Stabilization Account will moderate fluctuations in Net Revenue and help to alleviate the need for short-term rate adjustments. Money in the Coverage Stabilization Account may be transferred as determined from time to time by the Finance Director. The City may make deposits into the Coverage Stabilization Account from the Water & Sewer System Revenue Fund at any time in accordance with the flow of funds set forth in subsection (a) of this section. Money in the Coverage Stabilization Account may be withdrawn at any time and used for the purposes for which the Gross Revenue may be used. For purposes of measuring compliance with the Rate Covenant, amounts withdrawn from the Coverage Stabilization Account shall increase Gross Revenue for the period in which they are withdrawn, and amounts deposited in the Coverage Stabilization Account shall reduce Gross Revenue for the period during which they are deposited. Transfers to or from the Coverage Stabilization Account that occur within 90 days after the end of a fiscal year may be treated as occurring within such fiscal year. Earnings on the Coverage Stabilization Account shall be credited to the Water & Sewer System Revenue Fund.

Section 16. Bond Covenants. For so long as any of the Bonds are outstanding, the City covenants and agrees as follows:

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

(b) *Rate Covenant.* The City will establish, maintain, and collect such rates and charges for service of the Water & Sewer System for so long as any Parity Bonds are outstanding as will maintain the Rate Covenant.

(c) *Payment of Costs of Maintenance and Operation.* In accordance with the flow of funds from the Water & Sewer System Revenue Fund as required by Section 14 hereof, there shall be maintained in the Revenue Fund sufficient money to enable the City to meet the Costs of Maintenance and Operation on a current basis.

(d) *Sale or Disposition of the Water & Sewer System.* The City will not sell or otherwise dispose of the Water & Sewer System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment into the Revenue Bond Fund of cash or Government Obligations sufficient together with interest to be earned thereon to pay the principal of and interest on the then-Outstanding Parity Bonds, nor will it sell or otherwise dispose of any part of the useful operating properties of the Water & Sewer System unless such facilities are replaced or provision is made for payment into the Revenue Bond Fund of the greatest of the following:

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

(2) An amount which will be in the same proportion to the net amount of Parity Bonds then outstanding (as defined above) that the Net Revenue from the portion of the Water & Sewer System sold or disposed of for the preceding year bears to the total Net Revenue for such period; or

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

The proceeds of any such sale or disposition of a portion of the properties of the Water & Sewer System (to the extent required above) shall be paid into the Revenue Bond Fund. Notwithstanding any other provision of this subsection (d), the City may sell or otherwise dispose of any of the works, plant, properties, and facilities of the Water & Sewer System (or any real or personal property comprising a part of the same) which shall have become unserviceable, inadequate, obsolete, unfit to be used in the operation of the Water & Sewer System, or no longer necessary, material to, or useful in such operation, without making any deposit into the Revenue Bond Fund.

(e) *Liens or Encumbrances.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the Water & Sewer System or the Gross Revenue, or any part thereof, prior or superior to the lien thereon for the payment of the Parity Bonds, and will pay and discharge, or cause to be paid and discharged, any and all lawful claims for

labor, materials, or supplies which, if unpaid, might become a lien or charge upon the Gross Revenue, or any part thereof, or upon any funds in the hands of the City, prior to or superior to the lien of the Parity Bonds, or which might impair the security of the Parity Bonds.

(f) *Insurance.* The City will keep the works, plants and facilities comprising the Water & Sewer System insured, and will carry such other insurance, with responsible insurers, with policies payable to the City, against risks, accidents or casualties, at least to the extent that insurance is usually carried by private corporations operating like properties, or will implement a self-insurance program with reserves adequate, in the judgment of the Council, to protect the City and the holders of Parity Bonds against loss. In the event of any loss or damage, the City will promptly repair or replace the damaged portion of the insured property and apply the proceeds of any insurance policy for that purpose; or in the event the City should determine not to repair or reconstruct such damaged portion of the properties of the Water & Sewer System, the proceeds of such insurance shall be paid into the Common Reserve Subaccount (or any other debt service reserve subaccount established to secure any Parity Bonds) to the extent that such transfer is necessary to make up any deficiency in said subaccount and the balance, if any, shall be used, at the option of the City: (i) for repairs, renewals, replacements, or capital additions to the Water & Sewer System, (ii) for the redemption of Parity Bonds, or (iii) for deposit into the Revenue Bond Fund.

(g) *Books and Accounts.* The City shall keep proper books of account in accordance with any applicable rules and regulations prescribed by the State. The City shall annually prepare balance sheets and profit and loss statements showing in reasonable detail: the financial condition of the Water & Sewer System as of the close of each year; the income and expenses of such year, including the amounts paid into the Water & Sewer System Revenue Fund, the Revenue Bond Fund, and into any and all special funds or accounts created pursuant to the provisions of this ordinance; and the amounts expended for maintenance, renewals, replacements, and capital additions to the Water & Sewer System. Such annual financial and operating statements shall be provided to any owner of Parity Bonds upon request.

(h) *No Free Service.* Except to aid the poor or infirm, the City will not furnish or supply or permit the furnishing or supplying of any service or facility in connection with the operation of the Water & Sewer System free of charge to any person, firm, or corporation, public or private, other than the City, so long as any Bonds are outstanding and unpaid.

(i) *Additions and Improvements.* The City will not expend any of the Gross Revenue derived by it from the operation of the Water & Sewer System, or the proceeds of any indebtedness payable from the Gross Revenue for any extensions, betterments, or improvements to the Water & Sewer System that are not legally required or economically sound, in the judgment of the City, and that will not, in the judgment of the City, properly and advantageously contribute to the conduct of the business of the Water & Sewer System in an efficient manner.

(j) *Collection of Delinquent Accounts.* The City will, on or before April 1 of each calendar year, determine all accounts that are delinquent and will take all necessary action to enforce payment of such accounts including real property foreclosure actions pursuant to RCW ch. 35.67, as amended, or its successor statute, if any, against those property owners whose accounts are delinquent.

(k) *Collection and Application of ULID Assessments.* All ULID Assessments (if any) shall be paid into the Revenue Bond Fund and shall be used to pay and secure the payment of the principal of and interest on the Parity Bonds. Nothing in this ordinance or this section shall be construed to prohibit the City from issuing water, sewer or other utility system revenue bonds or other debt obligations subordinate in lien to the Bonds and pledging as security for their payment

assessments levied in any ULID which may have been specifically created to pay part of the cost of improvements to the Water & Sewer System for which such Subordinate Debt was specifically issued.

(l) *Collection of Delinquent ULID Assessments.* The City will, on or before April 1 of each calendar year (or such other annual date that is consistent with the collection of ULID Assessments), determine all ULID Assessments or installments thereof that are delinquent and will take all necessary action to enforce payment of such ULID Assessments, including real property foreclosure actions pursuant to RCW Chapter 35.50, as amended, or its successor statute, if any, against the property owners whose ULID Assessments are delinquent.

Section 17. Provisions for Future Parity Bonds

(a) *Parity Conditions.* The City reserves the right to issue Future Parity Bonds if the Parity Conditions set forth in Exhibit B are met and complied with at the time of the issuance of those Future Parity Bonds.

(b) *Junior Liens.* Nothing herein contained shall prevent the City from issuing revenue bonds or other obligations that are a charge upon the Gross Revenue junior or inferior to the payments required by this ordinance to be made out of such Gross Revenue into the Revenue Bond Fund and accounts therein to pay and secure the payment of any Outstanding Parity Bonds, or from pledging the payment of utility local improvement district assessments into a bond redemption fund created for the payment of the principal of and interest on Subordinate Debt, as long as such utility local improvement district assessments are levied for improvements constructed from the proceeds of that Subordinate Debt.

(c) *Refunding to Avoid Default.* Nothing herein contained shall prevent the City from issuing revenue bonds to refund maturing Parity Bonds for the payment of which money is not otherwise available.

Section 18. Separate Utility Systems. *The following provision shall automatically become effective upon the Parity Covenant Date: The City may at any time create, acquire, construct, finance, own and operate one or more systems for water, sanitary sewer, and storm and surface water drainage systems (or other utility commodity or service), which systems are separate from and in addition to the Water & Sewer System. The revenue of any such Separate Utility System (and any utility local improvement district assessments payable solely with respect to improvements to a Separate Utility System), may be excluded from the Gross Revenue and may be pledged to the payment of revenue obligations that are issued to purchase, construct, condemn or otherwise acquire or expand the Separate Utility System and are payable solely from the net revenues of that Separate Utility System (and any utility local improvement district assessments payable solely with respect to improvements to a Separate Utility System). Neither the Gross Revenue of the Water & Sewer System nor the ULID Assessments (if any) may be pledged to the payment of any obligations of such a Separate Utility System, except that the Net Revenue may be pledged on a basis subordinate to the lien of the Parity Bonds.*

Section 19. Contract Resource Obligations. *The following provision shall automatically become effective upon Parity Covenant Date: The City may at any time enter into one or more Contract Resource Obligations for the acquisition, from facilities to be constructed or improved by the use of payments under such Contract Resource Obligations, of water, sanitary sewer, and storm and surface water drainage facilities, commodities, or services, or any other facility, commodity, or service relating to the Water & Sewer System, consistent with the following:*



(a) Obligations Relating to New Facilities. *The City may agree under a contract containing a Contract Resource Obligation that all payments in respect of that Contract Resource Obligation (including payments prior to the time that water, sanitary sewer, and storm and surface water drainage service is placed in service or connected, and during any suspension or after termination of supply or service) shall be deemed a Costs of Maintenance and Operations, so long as the payments required to be made under the Contract Resource Obligation are not subject to acceleration and the following additional requirements are met at the time such a Contract Resource Obligation is entered into:*

(1) *No event of default has occurred and is continuing under the terms of any debt obligation of the City in respect of the Water & Sewer System; and*

(2) *The City has obtained a certificate of an Independent Consultant stating that in such consultant's professional opinion: (i) the payments to be made by the City in connection with the Contract Resource Obligation are reasonable for the facilities, commodities, or services provided; (ii) the source of any new supply, and any facilities to be constructed to provide the supply or transmission, are sound from a supply or planning standpoint, are technically and economically feasible in accordance with prudent utility practice, and are likely to provide service no later than a date set forth in the certification; and (iii) the Net Revenue of the Water & Sewer System will be sufficient to satisfy the Rate Covenant for each of the five calendar years following the calendar year in which the Contract Resource Obligation is incurred, where the calculation of Net Revenue (A) takes into account the adjustments permitted in connection with a certificate delivered to satisfy the Parity Conditions, and (B) adjusts the Costs of Maintenance and Operation by such Independent Consultant's estimate of the payments to be made in accordance with the Contract Resource Obligation.*

(b) Obligations Relating to Existing Facilities. *Nothing in this section shall prevent the City from entering into agreements relating to obtaining or acquiring facilities, commodities, or services relating to the Water & Sewer System from existing facilities or sources of supply and from treating those payments as a Costs of Maintenance and Operations.*

(c) Subordinate Obligations. *Nothing in this section shall prevent the City from entering into agreements for facilities, commodities, or services relating to the Water & Sewer Systems that are to be constructed or obtained in the future and from agreeing to make payments with respect thereto that constitute Subordinate Obligations.*

## Section 20. Tax Covenants.

(a) Tax-Exempt Bonds. *The Sale Terms and other documents executed in conjunction with the sale of the Bonds (or a Series of the Bonds) may include such additional terms and covenants relating to federal tax matters as the Finance Director deems necessary or appropriate, including the following:*

(1) Preservation of Tax Exemption for Interest on Tax-Exempt Bonds. *The City covenants that if it determines to sell the Bonds (or any series of the Bonds) as Tax-Exempt Bonds, it will take all actions necessary to prevent interest on those Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of those Tax-Exempt Bonds or other funds of the City treated as proceeds of those Tax-Exempt Bonds that will cause interest on those Tax-Exempt Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Tax-Exempt Bonds (or*

a Series thereof), take all actions necessary to comply (or to be treated as having complied) with those requirements.

(2) *Post-Issuance Compliance with Federal Tax-Exempt Bond Requirements.* The Finance Director is authorized and directed to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Tax-Exempt Bonds from being included in gross income for federal tax purposes.

(b) *Taxable Bonds.* Notwithstanding the foregoing, nothing herein prevents the Finance Director from determining that the Bonds, or a Series of the Bonds, is to be issued as Taxable Bonds.

Section 21. Amendatory and Supplemental Ordinances. This ordinance shall not be modified or amended in any respect subsequent to the initial issuance of the Bonds, except as provided in and in accordance with and subject to the provisions of this section. For purposes of this provision, the passage of an ordinance authorizing the issuance of Future Parity Bonds shall not be considered an amendatory or supplemental ordinance subject to these restrictions.

(a) *Certain Amendatory or Supplemental Ordinances Permitted Without Bond Owner Consent.* From time to time, and at any time, without the consent of or notice to the Registered Owners of the Parity Bonds, the City, may pass amendatory or supplemental ordinances as set forth in this subsection (a). The permitted purposes under this subsection (a) are:

(1) To add to the covenants and agreements of the City set forth in this ordinance, additional covenants or agreements to be observed by the City thereafter, which do not adversely affect the interest of the holders of any then-outstanding Parity Bonds, or to surrender any right or power herein reserved to the City.

(2) To make such provisions as the City Council may deem necessary or desirable for the purpose of curing any ambiguities or of curing, correcting, or supplementing any defective provision contained in this ordinance or any Future Parity Bond Authorizing Ordinance in regard to matters or questions arising under such ordinances, provided that such action is not inconsistent with such ordinances and does not adversely affect, in any material respect, the interests of the holders of the Parity Bonds.

(b) *Amendatory or Supplemental Ordinances Requiring Consent of Registered Owners of 65% of Parity Bonds Outstanding.* In addition to any ordinance permitted pursuant to paragraph (a) and subject to the terms and conditions contained in subsection (c) and not otherwise, upon consent of the Registered Owners of not less than 65% in aggregate principal amount of the Parity Bonds then outstanding the City Council may pass any supplemental or amendatory ordinance for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance or of any other Parity Bond Ordinance. It shall not be necessary for the consent of bondholders under this subsection (b) to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof, and nothing contained herein shall prevent the City Council from passing such an ordinance with an effective date that is contingent upon obtaining the consents described herein.

For the purpose of consenting to amendments under this subsection (b) except for amendments that alter the interest rate, maturity date, interest payment dates, purchase upon tender or redemption of any Parity Bonds, the issuer or provider of a Credit Facility shall be deemed to be the sole Registered Owner of the Parity Bonds that are payable from such Credit Facility and that are then outstanding.

(c) *Amendatory or Supplemental Ordinances Requiring Consent of All Registered Owners.* Notwithstanding the foregoing, no supplemental or amendatory ordinance shall:

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

(2) Reduce the aforesaid percentage of bondholders required to approve any supplemental or amendatory ordinance, without the consent of the Registered Owners of all of the Parity Bonds then outstanding.

(d) *Effect of Passage of Amendatory or Supplemental Ordinance.* Upon the effective date of any amendatory or supplemental ordinance passed and approved, if required, pursuant to the provisions of this section, this ordinance shall be, and shall be deemed to be, amended and supplemented accordingly. The respective rights, duties and obligations under this ordinance of the City, the Bond Registrar, and all Registered Owners shall thereafter be determined, exercised, and enforced under this ordinance subject in all respects to such supplements and amendments, and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this ordinance for any and all purposes.

Any Bonds executed and delivered pursuant to this ordinance after the effective date of any amendatory or supplemental ordinance passed in accordance with this section may include a notation as to any matter provided for in such amendatory or supplemental ordinance. If such amendatory or supplemental ordinance shall so provide, new Bonds bearing the same principal amounts and terms that are modified so as to conform, in the opinion of the City Council, to the supplement or amendment of this ordinance, may be prepared and delivered without cost to the holders of any affected Bonds, upon surrender for cancellation of such original Bonds (together with all unmatured coupons and all matured coupons not fully paid, if any).

## Section 22. Defaults and Remedies.

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

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

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

(3) If the City defaults in the observance and performance of any other of its covenants, conditions and agreements set forth in this ordinance and such default or defaults have continued for a period of six months after they have received from the registered owners of not less than 25% in outstanding 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-month period, it shall not be an Event of Default with respect to the Bonds as long as the City has taken active steps within 90 days to remedy the default and is diligently pursuing such remedy.

(b) *No Acceleration.* Nothing contained in this ordinance shall, in any event or under any circumstance, be deemed to authorize the acceleration of maturity of principal of the Parity Bonds. The remedy of acceleration is expressly denied to the Owners of the Parity Bonds under any

circumstances including, without limitation, upon the occurrence and continuance of an Event of Default.

(c) ***Subsections (c) through (g), as set forth below, shall become effective only upon the Parity Covenant Date: Bondowners' Trustee.*** A notice to the City of an Event of Default under subsection (a)(3) may alternatively be given by a Bondowners' Trustee appointed as described in this subsection. Upon occurrence of an Event of Default (notwithstanding the notice requirement under subsection (a)(3), a Bondowners' Trustee may be appointed by the Registered Owners of 25% in principal amount of the Parity Bonds then outstanding, 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 Bondowners' Trustee, and after notice of such appointment has been delivered to the City. That appointment shall become effective immediately upon acceptance thereof by the Bondowners' Trustee. Any Bondowners' Trustee must 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 Bondowners' Trustee may be removed at any time, and a successor Bondowners' 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 Bonds or by their attorneys-in-fact duly authorized. The Bondowners' 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. If any Event of Default is, in the sole judgment of the Bondowners' Trustee, cured and the Bondowners' Trustee furnishes to the City a certificate so stating, that Event of Default shall be conclusively deemed to be cured and the City, the Bondowners' 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 Bondowners' 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 Bondowners' Trustee.

(d) ***Suits at Law or in Equity.*** Upon the happening of an Event of Default and during the continuation thereof, the Bondowners' Trustee may (and, upon the written request of the registered owners of not less than 25% in principal amount of the Parity Bonds outstanding, must) take such steps and institute such suits, actions or other proceedings, all as it may deem appropriate for the protection and enforcement of the rights of the registered owners of the Parity Bonds, to collect any amounts due and owing to or from the City, or to obtain other appropriate relief, and may enforce the specific performance of any covenant, agreement or condition contained in this ordinance or in any of the Parity Bonds. Any action, suit or other proceedings instituted by the Bondowners' Trustee hereunder shall be brought in its name as trustee for the Bondowners 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 Bondowners' 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 Bondowners' 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 Bondowners' 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 Bondowners' Trustee to

consent to accept or adopt, on behalf of any registered owner of the Parity Bonds, any plan of reorganization or adjustment affecting the Parity Bonds or any right of any registered owner thereof, or to authorize or empower the Bondowners' 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.

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

(1) First, to the payment of the charges, expenses, advances and compensation of the Bondowners' Trustee and the charges, expenses, counsel fees, disbursements and compensation of its agents and attorneys.

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

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

(f) Duties and Obligations of Bondowners' Trustee. The Bondowners' Trustee shall not be liable except for the performance of such duties as are specifically set forth herein. During an Event of Default, the Bondowners' 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 their own affairs. The Bondowners' Trustee shall have no liability for any act or omission to act hereunder except for the Bondowners' Trustee's own negligent action, its own negligent failure to act or its own willful misconduct. The duties and obligations of the Bondowners' Trustee shall be determined solely by the express provisions of this ordinance, and no implied powers, duties or obligations of the Bondowners' Trustee shall be read into this ordinance. The Bondowners' 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 Bondowners' Trustee, except as may result from its own negligent action, its own negligent failure to act or its own willful misconduct. The Bondowners' Trustee shall not be bound to recognize any person as a registered owner of any Bond until title thereto, if disputed, has been established to its reasonable satisfaction. The Bondowners' 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 Bondowners' Trustee shall not be answerable for any neglect or default of any person, firm or corporation employed and selected by it with reasonable care.

(g) Suits by Individual Bondowners Restricted. Neither the registered owner nor the beneficial owner of any one or more of Parity Bonds shall have any right to institute any action, suit or proceeding at law or in equity for the enforcement of same unless: (1) an Event of Default has

*happened and is continuing; (2) a Bondowners' Trustee has been appointed; (3) such owner previously shall have given to the Bondowners' Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be instituted; (4) the registered owners of 25% in principal amount of the then outstanding Parity Bonds have made, after the occurrence of such Event of Default, written request of the Bondowners' Trustee and have afforded the Bondowners' Trustee a reasonable opportunity to institute such suit, action or proceeding; (5) there have been offered to the Bondowners' Trustee security and indemnity satisfactory to it against the costs, expenses and liabilities to be incurred therein or thereby; and (6) the Bondowners' 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 such Owner's action to affect or impair the obligation of the City to pay from the Net Revenue the principal of and interest on such Parity Bonds to the respective Owners thereof when due.*

Section 23. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds by negotiated sale, private placement, or by competitive sale in accordance with a notice of sale consistent with this ordinance, based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors. In determining the method of sale of a Series and accepting the Bond Sale Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest true interest cost to the City.

(b) *Procedure for Negotiated Sale or Private Placement.* If the designated Representative determines that a Series of the Bonds is to be sold by negotiated sale or private placement, the Designated Representative shall select one or more Purchasers with which to negotiate such sale. The Bond Purchase Agreement for such Series shall set forth the Bond Sale Terms. The Designated Representative is authorized to execute the Bond Purchase Agreement on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Procedure for Competitive Sale.* If the Designated Representative determines that a Series of the Bonds is to be sold by competitive sale, the Designated Representative shall cause the preparation of an official notice of bond sale setting forth parameters for the Bond Sale Terms and any other bid parameters that the Designated Representative deems appropriate consistent with this ordinance. Bids for the purchase of the Series shall be received at such time or place and by such means as the Designated Representative directs. On the date and time established for the receipt of bids, the Designated Representative (or the designee of the Designated Representative) shall open bids and shall cause the bids to be mathematically verified. The Designated Representative is authorized to award, on behalf of the City, the winning bid and accept the winning bidder's offer to purchase the Series, with such adjustments to the aggregate principal amount and principal amount per maturity as the Designated Representative deems appropriate, consistent with the terms of this ordinance. The Designated Representative may reject any or all bids submitted and may waive any formality or irregularity in any bid or in the bidding process if the Designated Representative deems it to be in the City's best interest to do so. If all bids are rejected, the Series may be sold pursuant to negotiated sale or in any manner provided by law as the Designated Representative determines is in the best interest of the City, within the parameters set forth in this ordinance.

(d) *Preparation, Execution and Delivery of the Bonds.* Each Series of the Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond

Purchase Agreement, together with the approving legal opinion of Bond Counsel regarding the Series.

Section 24. Official Statement; Continuing Disclosure.

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review and, if acceptable to him or her, approve the preliminary Official Statement prepared in connection with each sale of a Series of the Bonds to the public or through a Purchaser acting as a placement agent. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, the Designated Representative 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 approved by the Designated Representative and been deemed final, if applicable, in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final Official Statement for each Series of the Bonds to be sold to the public in the form of the preliminary Official Statement that has been approved and deemed final in accordance with subsection (a), with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes the Designated Representative to execute and deliver such final Official Statement to the Purchaser if required under Rule 15c2-12. The City authorizes and approves the distribution by the Purchaser of the final Official Statement so executed and delivered to purchasers and potential purchasers of a Series of the Bonds.

(c) *Undertaking to Provide Continuing Disclosure.* If necessary to meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to the Purchaser acting as a participating underwriter for a Series of the Bonds, the Designated Representative is authorized to execute a written undertaking to provide continuing disclosure for the benefit of holders of a Series of the Bonds in substantially the form attached as Exhibit E.

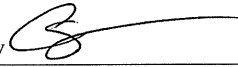
Section 25. General Authorization and Ratification. The Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of each Series of the Bonds to the Purchaser thereof and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 26. Severability. If any provision in this ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null and void and shall be deemed separable from the remaining provision of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

Section 27. Effective Date of Ordinance. This ordinance shall be effective fifteen days after it becomes valid pursuant to Section 3.4 of the City Charter.

PASSED by the City Council of the City of Everett, Washington, at a regular open public meeting thereof, this 19th day of March, 2025, and signed in authentication of its passage this 19th day of March, 2025.

CITY OF EVERETT, WASHINGTON

By 

Mayor 03/20/2025

Attest:

APPROVED AS TO FORM



City Clerk

By 

Stradling Yocca Carlson & Rauth LLP  
Bond Counsel to the City

03/20/2025

DATE OF PUBLICATION: 03/22/2025

EFFECTIVE DATE: 04/03/2025



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**EXHIBIT A**

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**OUTSTANDING WATER & SEWER SYSTEM INDEBTEDNESS****Outstanding Parity Bonds**

<b>Issue Name</b>	<b>Authorizing Ordinance</b>	<b>Issue Date</b>	<b>Final Maturity Date</b>	<b>Original Par Amount</b>	<b>Amount Outstanding as of 1/1/2025</b>
Water & Sewer Revenue Refunding Bonds, 2013	Ord. 3313-13	3/1/2023	12/1/2030	\$62,145,000	\$ 7,740,000
Water & Sewer Revenue Bonds, 2015	Ord. 3450-15	11/3/2015	12/1/2040	\$50,525,000	\$ 35,615,000
Water & Sewer Revenue Refunding Bonds, 2016	Ord. 3518-16	11/29/2016	12/1/2035	\$68,050,000	\$ 50,180,000
Water & Sewer Revenue and Refunding Bonds, 2023	Ord. 3946-23	5/31/2023	12/1/2048	\$49,235,000	\$ 45,020,000

**Outstanding Government Loans**

<b>Program Lender/Bondholder</b>	<b>Issue Date</b>	<b>Maturity Date</b>	<b>Maximum Authorized Amount</b>	<b>Amount Outstanding as of 1/1/2025</b>
Public Works Trust Fund ("PWTF") Loan Treatment Plant Upgrade	4/25/2005	7/1/2025	\$9,500,000	\$ 527,778
PWTF Loan Water Pollution Facility Expansion	6/25/2006	7/1/2026	\$7,000,000	\$ 736,842
PWTF Loan Water Pollution Facility Expansion	1/31/2013	6/1/2032	\$10,000,00	\$ 4,387,351
Drinking Water State Revolving Fund ("DWSRF") Loan Clearwell No. 2	3/3/2006	10/1/2025	\$4,040,000	\$ 222,574
DWSRF Loan Clearwell No. 2	12/21/2007	10/1/2026	\$4,040,000	\$ 425,263
DWSRF Loan Clearwell No. 2	3/3/2008	10/1/2027	\$3,030,000	\$ 478,421
DWSRF Loan Clearwell No. 2	8/22/2008	10/1/2028	\$4,040,000	\$ 853,278
SWSRF Recovered Water Outfall	08/05/2009	10/1/2029	\$1,376,473	\$ 362,249
DWRFL Bond Street CSO	10/13/2010	9/6/2033	\$1,994,497	\$ 994,824

## EXHIBIT B

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### **Requirements for the Issuance of Future Parity Bonds ("Parity Conditions")**

(a) *Conditions to the Issuance of Future Parity Bonds.* The City may issue Future Parity Bonds secured by a lien and charge on the Net Revenues and ULID Assessments on a parity with the Bonds and the Outstanding Parity Bonds if and only if the following conditions are met and complied with at the time of issuance of those proposed Future Parity Bonds:

(1) The City shall not have been in default of its Rate Covenant for the immediately preceding fiscal year, without regard to transfers from the Coverage Stabilization Account; and

(2) The Future Parity Bond Authorizing Ordinance must include a covenant that the City will establish, maintain, and collect such rates and charges for service of the Water & Sewer System for so long as any Parity Bonds are outstanding as will maintain the Rate Covenant.

There shall have been filed a certificate (prepared as described in subsection (c) or (d) below) demonstrating fulfillment of the Parity Requirement, commencing with the first full fiscal year following the date on which any portion of interest on the series of Future Parity Bonds then being issued no longer will be paid from the proceeds of such series of Future Parity Bonds. For purposes of this certificate:

(i) "Parity Requirement" means Net Revenue equal to or greater than 125% of Average Annual Debt Service for all Parity Bonds, computed by deducting from Annual Debt Service the Annual Debt Service for each series or issue of Parity Bonds that is covered by ULID Assessments. In determining the amount of Annual Debt Service "covered by ULID Assessments," Annual Debt Service for each future year is reduced by the dollar amount of ULID Assessments projected to be received during such future year, and the remaining outstanding ULID Assessments are assumed to be paid in the remaining number of annual installments with no prepayments. For purposes of determining whether the Parity Requirement has been met, transfers from the Coverage Stabilization Account shall not be taken into account.

(ii) "Historical Net Revenue" or "Net Revenue" means Gross Revenue (or the relevant part or parts thereof) (A) less the normal expenses of maintenance and operation of the Water & Sewer System (or the relevant part or parts thereof), (B) before depreciation, and (C) adjusted to reflect the rates and charges effective on the date of such certificate if there has been any change in such rates and charges during or after such Base Period.

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

(1) If the Future Parity Bonds being issued are for the purpose of refunding Outstanding Parity Bonds; or

(2) If the Future Parity Bonds are being issued to pay costs of construction of facilities of the Water & Sewer System for which Future Parity Bonds have been issued previously and the principal amount of such Future Parity Bonds being issued for completion purposes does not exceed an amount equal to an aggregate of 15% of the principal amount of Future Parity Bonds theretofore issued for such facilities and reasonably allocable to the facilities to be completed as shown in a written certificate of the Finance Director, and there is delivered a Designated

Representative's certificate stating that the nature and purpose of such facilities has not materially changed.

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

(d) *Certificate of an Independent Consultant.* Unless compliance with the requirements of subsection (a)(3) have been otherwise satisfied as provided in (b) or (c) above, compliance with the Parity Requirement shall be demonstrated conclusively by a certificate of an Independent Consultant.

In making the computations of Net Revenue for the purpose of certifying compliance with the Parity Requirement, the Independent Consultant shall use as a basis the Net Revenue (which may be based upon unaudited financial statements of the City if the audit has not yet been completed) for the Base Period. Such Net Revenue shall be determined by adding the following:

(1) The Historical Net Revenue for the Base Period, as determined by the Independent Consultant.

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

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

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

(5) The estimated annual Net Revenue to be derived from the operation of any additions and improvements to or extensions of the City being paid for out of the proceeds of the sale of such Future Parity Bonds being issued.

In the event the City will not derive any revenue as a result of the construction of the additions, improvements, or extensions being made or to be made to the Water & Sewer System that is reflected in the provisions of subparagraphs (4) and (5) immediately above, the estimated normal Costs of Maintenance and Operation (excluding any transfer of money to other funds of the City and license fees, taxes, and payments in lieu of taxes payable to the City) of such additions, improvements, and extensions shall be deducted from estimated annual Net Revenue.

## EXHIBIT C

### PARAMETERS FOR SALE TERMS

- |     |                           |  |
|-----|---------------------------|--|
| (a) | Principal Amount.         | The Bonds may be issued in one or more Series and shall not exceed the aggregate principal amount of \$181,000,000.  |
| (b) | Date or Dates.            | Each Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance.   |
| (c) | Denominations, Name, etc. | The Bonds shall be issued in Authorized Denominations and shall be numbered separately in the manner and bearing such name (including any series or additional designation) as deemed necessary or appropriate by the Designated Representative.   |
| (d) | Interest Rate(s).         | Each Bond shall bear interest at a fixed rate per annum (computed on the basis of a 360-day year of twelve 30-day months) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for the Bonds. The true interest cost to the City for each Series of the Bonds may not exceed 5.50%.  |
| (e) | Payment Dates.            | Interest shall be payable semiannually on dates acceptable to the Designated Representative. Principal payments shall commence on a date acceptable to the Designated Representative and shall be payable at maturity (or in mandatory redemption installments) on dates acceptable to the Designated Representative.  |
| (f) | Final Maturity.           | The Bonds shall mature no later than December 1, 2050.   |
| (g) | Redemption Rights.        | <p>The Designated Representative may approve in the Bond Purchase Agreement for each Series provisions for the optional and mandatory redemption of the Bonds of such Series, subject to the following:</p> <p>(1) <u>Optional Redemption</u>. Any Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the prices set forth in the Bond Purchase Agreement; or (B) not subject to redemption prior to its maturity date. If a Tax-Exempt 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.</p> |

- (2) Mandatory Redemption. Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in the amounts set forth in the Bond Purchase Agreement.
- (h) Price. The purchase price for each Series of the Bonds may not be less than 98.0% or more than 135.0% of the stated principal amount of that Series.
- (i) Other Terms and Conditions.
- (1) *Parity Conditions Met.* The Designated Representative must be satisfied that the Parity Conditions have been met to permit the Bonds to be issued as Parity Bonds.
- (2) *Reasonably Expected Life.* As of the Issue Date of each Series, the Designated Representative must find to the Designated Representative's satisfaction that the average expected life of the capital facilities or assets to be financed with the proceeds (or allocable share of proceeds) of that Series exceeds the weighted average maturity of such Series (or share thereof allocated to financing those capital facilities).
- (3) *Tax Status of the Bonds.* The Designated Representative may designate any Series of the Bonds as Tax-Exempt Bonds, Taxable Bonds, or Tax Credit Subsidy Bonds, consistent with Section 20 of this ordinance.
- (4) *Reserve Requirement.* In approving the Sale Terms, the Designated Representative shall determine whether it is in the City's best interest to designate the Bonds (or a Series of the Bonds) as Covered Bonds and whether to provide for such Reserve Requirement by Bond Insurance or other credit enhancement or Reserve Securities; and may accept such additional terms, conditions and covenants in relation thereto as the Designated Representative may determine are in the best interests of the City, consistent with this ordinance.

- (5) *Additional Terms, Conditions, and Agreements.* The Sale Terms for any Series may provide for bond insurance or for any other credit enhancement as the Designated Representative may find necessary or desirable. The 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 any of the Bonds); provisions for the conversion of interest rate modes; provisions for the reimbursement of a credit enhancement provider; and requirements to give notice to or obtain the consent of a credit enhancement provider. The Designated Representative is authorized to execute, on behalf of the City, such additional certificates and agreements as may be necessary or desirable to reflect such terms, conditions, and covenants.

## EXHIBIT D

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### DESCRIPTION OF PROJECTS

#### Water System Projects:

- [Reserved]

#### Sewer System Projects:

- **Port Gardner Storage Facility (PGSF).** This project will redevelop the former Kimberly-Clark Industrial wastewater treatment plant to provide temporary storage and control of combined sewer outflows and a regional treatment system for urban stormwater runoff.
- **PGSF West Marine View Drive (WMVD) Combined Conveyance Improvements.** This project is one of the conveyance projects related to the PGSF program. It includes the design and construction of new large diameter storm and combined sewer pipelines and manholes and rehabilitation and replacement of a water main for combined sewer.
- **36<sup>th</sup> Street Combined Sewer Outflow (CSO) Control.** This project will control and eliminate combined sewer flooding at 36<sup>th</sup> Street and McDougall Avenue to reduce CSO discharges at the Snohomish River Outfalls. The project will build a large underground storage tank and associated pipe infrastructure for storage of excess combined storm and sewer flows.
- **Water Pollution Control Facility (WPCF) Headworks Replacement.** The headworks structure at the City of Everett's WPCF is a key piece of wastewater treatment infrastructure for the City and the surrounding region. The headworks structure needs complete replacement due to internal structural degradation and process equipment deterioration.

#### Storm & Surface Water Drainage System Projects:

- **The Port Gardner Storage Facility (PGSF) and PGSF West Marine View Drive Combined Conveyance Improvements Projects.** These projects are components of the Sewer System Projects. Refer to Sewer System Projects section for project details.

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**EXHIBIT E**

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[Form of]

**UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

**City of Everett, Washington  
Water & Sewer Revenue Bonds, 2025[ ]**

The City of Everett, Washington (the “City”), makes the following written Undertaking for the benefit of holders of the above-referenced bonds (the “Bonds”), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance No. \_\_\_\_ of the City (the “Bond Ordinance”).

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

(i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) (“annual financial information”). The timely filing of unaudited financial statements shall satisfy the requirements and filing deadlines pertaining to the filing of annual financial statements under subsection (b), provided that audited financial statements are to be filed if and when they are otherwise prepared and available to the City.

(ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; (14) appointment of a successor or additional trustee or the change of name of a trustee, if material; (15) incurrence of a financial obligation of the City, if material, or agreement to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation of the City, any of which affect holders of the Bonds, if material; and (16) any default, event of acceleration, termination event, modification of terms, or other similar event under the terms of a financial obligation of the City, any of which reflect financial difficulties.



For purposes of this Undertaking, the term “financial obligation” shall mean a debt obligation; derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation; or a guarantee of either a debt obligation or a derivative instrument entered into in connection with, or pledged as security or a source of payment for, an existing or planned debt obligation. The term “financial obligation” does not include municipal securities as to which a final official statement has been provided to the MSRB consistent with the Rule.

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

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

(i) Shall consist of (1) annual financial statements, which statements may or may not be audited, showing ending fund balances, prepared in accordance with regulations prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statutes) and generally of the type included in the Official Statement and described as follows:*[to be inserted based on the Official Statement]*; (2) the principal amount of Parity Bonds then outstanding; and (3) number of Water & Sewer System customers.

(ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City’s fiscal year ending December 31, 2024; and

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

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

(d) Beneficiaries. This Undertaking shall inure to the benefit of the City and the holder of each Bond and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City’s obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City’s obligations under this Undertaking shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any material failure to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default in respect of the Bonds. The sole

remedy of any holder of a Bond shall be to take action to compel the City or other obligated person to comply with this Undertaking, including seeking an order of specific performance from an appropriate court.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Director (or such officer's designee) is the person designated, in accordance with the Bond Ordinance, to carry out the Undertaking in accordance with Rule 15c2-12, including, without limitation, the following actions:

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

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

(iii) Determining whether any person other than the City is an "obligated person" within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;

(iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Undertaking; and

(v) Effecting any necessary amendment of this Undertaking.

### CERTIFICATION

I, the undersigned, City Clerk of the City of Everett, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 4083-25 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on March 19, 2025, as that ordinance appears on the minute book of the City.

2. A quorum of the members of the City Council was present throughout the meeting and a majority of the members voted in the proper manner for the passage of the Ordinance.

Dated: March 19, 2025.

CITY OF EVERETT, WASHINGTON

A handwritten signature in black ink, appearing to read 'ASAM', is written over a horizontal line.

ASHLEIGH SCOTT  
City Clerk











# ORD 4083-25\_CB 2502-18 2025 Water & Sewer Revenue Bonds ORD\_SD


Final Audit Report

2025-03-20

Created:	2025-03-20
By:	Marisa Nishimura (MNishimura@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAAZagYjiTyHfnLIDTlo5CICcFhLFTqkKYw

## "ORD 4083-25\_CB 2502-18 2025 Water & Sewer Revenue Bonds ORD\_SD" History

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2025-03-20 - 5:14:06 PM GMT
-  Email viewed by aostdiek@stradlinglaw.com  
2025-03-20 - 5:21:37 PM GMT
-  Signer aostdiek@stradlinglaw.com entered name at signing as Alice Ostdiek  
2025-03-20 - 5:22:18 PM GMT
-  Document e-signed by Alice Ostdiek (aostdiek@stradlinglaw.com)  
Signature Date: 2025-03-20 - 5:22:20 PM GMT - Time Source: server
-  Document emailed to Cassie Franklin (cfranklin@everettwa.gov) for signature  
2025-03-20 - 5:22:21 PM GMT
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2025-03-20 - 6:13:29 PM GMT
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Signature Date: 2025-03-20 - 6:13:54 PM GMT - Time Source: server
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2025-03-20 - 6:13:56 PM GMT
-  Document e-signed by Ashleigh Scott (AScott@everettwa.gov)  
Signature Date: 2025-03-20 - 6:20:45 PM GMT - Time Source: server

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2025-03-20 - 6:20:47 PM GMT

 Document approved by Marisa Nishimura (MNishimura@everettwa.gov)

Approval Date: 2025-03-20 - 6:36:51 PM GMT - Time Source: server

 Agreement completed.

2025-03-20 - 6:36:51 PM GMT