CITY OF DAYTON, WASHINGTON

ORDINANCE NO. 1966

AN ORDINANCE of the City of Dayton, Washington, relating to the water and sewer system of the City; providing for the issuance of water and sewer revenue refunding bonds of the City for the purpose of providing funds to pay all or part of the costs of refunding certain outstanding water and sewer revenue obligations of the City; fixing parameters with respect to the date, form, maturity, interest rate, terms and covenants of the bonds; providing for the registration and authentication of the bonds; creating and adopting certain funds and accounts; providing for the issuance of additional water and sewer revenue bonds; appointing the City's designated representative pursuant to RCW 39.46.040 to approve the final terms of the issuance, sale and delivery of the bonds; and providing for related matters.

PASSED: September 9, 2020

This document prepared by:

FOSTER GARVEY P.C.
1111 Third Avenue, Suite 3000
Seattle, Washington 98101
(206) 447-6264

TABLE OF CONTENTS

Page

ARTICLE I. GENERAL PROVISIONS 1
- Section 1.01 Findings 1
- Section 1.02 Definitions 2

ARTICLE II. PROVISIONS PARTICULAR TO THE BONDS 7
- Section 2.01 Authorization of the Bonds 7
- Section 2.02 Authority to Approve Bond Purchase Contracts; Description of Bonds. 7
- Section 2.03 Form and Execution of the Bonds 7
- Section 2.04 Registrar, Registration and Transfer of Bonds 8
- Section 2.05 Payment of the Bonds 8
- Section 2.06 Prepayment and Redemption Provisions. 9
- Section 2.07 Refunding or Defeasance of the Bonds 9
- Section 2.08 Pledge of Revenue and Lien Position 10
- Section 2.09 Preservation of Tax Exemption for Interest on the Bonds 10
- Section 2.10 Designation of Bonds as "Qualified Tax-Exempt Obligations" 10
- Section 2.11 Compliance Policies 10

ARTICLE III. PROVISIONS GOVERNING ALL PARITY BONDS 11
- Section 3.01 Application of Revenue of the System 11
- Section 3.02 The Revenue Fund 11
- Section 3.03 The Debt Service Fund 11
- Section 3.04 The Reserve Fund 12
- Section 3.05 Covenants 14
- Section 3.06 Events of Default 18

ARTICLE IV. REFUNDING OF THE REFUNDED BONDS 19
- Section 4.01 Use of Bond Proceeds 19
- Section 4.02 Call for Redemption of the Refunded Bonds 20
- Section 4.03 Findings with Respect to Refunding 20

ARTICLE V. MISCELLANEOUS PROVISIONS 20
- Section 5.01 Amendments to Ordinance 20
- Section 5.02 General Authorization; Ratification; and Limitation on Recourse 21
- Section 5.03 Severability 21
- Section 5.04 Effective Date 21

Attachment A Parameters for Final Terms

**The cover page, table of contents and section captions of this Ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this Ordinance.*

CITY OF DAYTON, WASHINGTON

ORDINANCE NO. 1966

AN ORDINANCE of the City of Dayton, Washington, relating to the water and sewer system of the City; providing for the issuance of water and sewer revenue refunding bonds of the City for the purpose of providing funds to pay all or part of the costs of refunding certain outstanding water and sewer revenue obligations of the City; fixing parameters with respect to the date, form, maturity, interest rate, terms and covenants of the bonds; providing for the registration and authentication of the bonds; creating and adopting certain funds and accounts; providing for the issuance of additional water and sewer revenue bonds; appointing the City's designated representative pursuant to RCW 39.46.040 to approve the final terms of the issuance, sale and delivery of the bonds; and providing for related matters.

THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON, DO ORDAIN as follows:

ARTICLE I. GENERAL PROVISIONS

Section 1.01 Findings. The Council finds and determines that:

(a) The City is a municipal corporation duly organized and existing under the laws of the State. Pursuant to the provisions of chapters 35.67, 35.92 and 35A.80 RCW, the City is authorized to acquire, construct, install and operate water and sewer systems. Pursuant to Ordinance No. 1622 passed and approved by the Mayor and Council on July 14, 1998, the City combined its water and sewer systems as authorized by RCW 35.67.331. The City is authorized to conduct proceedings pursuant to chapters 35.41, 35.67, 35.92, 35A.40, 39.46 and 39.53 RCW.

(b) The City currently has Outstanding the 2004 Bond, the 2004A Bond, the 2010 Bonds, the 2017 Bond and the State Loans, all of which are payable from the Revenue of the System.

(c) On or about the Issue Date, the City anticipates redeeming the 2004 Bond from available City money.

(d) Refunding the Refunded Bonds in accordance with the Refunding Plan will allow the City to modify debt service, covenants and other terms of the Refunded Bonds and is in the best interests of the City. Chapter 39.53 RCW and other laws of the State authorize the city to carry out the Refunding Plan.

(e) The Revenue of the System and benefits to be derived from the operation and maintenance of the System, at the rates to be charged for service from the System, will be more than sufficient to meet all Costs of Maintenance and Operation and to permit the setting aside into the Debt Service Fund of the amounts of Net Revenue that, together with Assessments (if any), will be sufficient to pay the principal of and interest on the Bonds when due. In creating the Debt Service Fund, and in fixing the amounts to be paid therein out of the Revenue of the

System, the Council has had due regard to Costs of Maintenance and Operation and the payments required to be made for the Bonds and other obligations payable from Revenue of the System. The Council has not obligated the City to set aside into the Debt Service Fund a greater amount of Revenue of the System than, in the Council's judgment, will be available over and above Costs of Maintenance and Operation and the amount of Revenue of the System previously pledged.

(f) No utility local improvement district was formed in connection to the issuance of the Bonds.

(g) RCW 39.46.040 provides that an ordinance authorizing the issuance of bonds may authorize an officer or employee of the City to serve as the City's Designated Representative and to accept, on behalf of the City, an offer to purchase those bonds so long as the acceptance of such offer is consistent with terms established by an ordinance that establishes the following Final Terms for the Bonds (or parameters with respect thereto): the amount, date, denominations, interest rates, payment dates, final maturity, redemption rights, price, minimum savings for refunding bonds (if the refunding bonds are issued for savings purposes), and any other terms and conditions deemed appropriate by the Council.

(h) The Council, pursuant to RCW 39.46.040, desires to delegate authority to the Treasurer (or in the absence or disability of the Treasurer, the Mayor), for a limited time, to accept the Final Terms of, and execute, one or more Bond Purchase Contracts, subject to the parameters for such Final Terms set forth in this Ordinance.

Section 1.02 Definitions. The words and phrases set forth in this Ordinance with initial capitalization shall have the respective meanings ascribed to such words and phrases in this section unless the context clearly requires otherwise.

(a) ***"2004 Bond"*** means the City's Water and Sewer Revenue Bond, Series 2004, issued pursuant to Ordinance No. 1700.

(b) ***"2004A Bond"*** means the City's Water and Sewer Revenue Bond, Series 2004A, issued pursuant to Ordinance No. 1714.

(c) ***"2010 Bonds"*** means the City's Water and Sewer Revenue Refunding Bonds, 2010, issued pursuant to Ordinance No. 1795.

(d) ***"2017 Bond"*** means the City's Junior Lien Water and Sewer Revenue Bond, 2017, issued pursuant to Ordinance No. 1916.

(e) ***"Acquisition*** or ***"Acquire"*** includes purchase, securing, lease, receipt by gift or grant, condemnation, transfer or other acquirement, or any combination thereof.

(f) ***"Adjusted Net Revenue"*** means the Net Revenue for a 12-month period preceding the issuance of Future Parity Bonds, as adjusted by an engineer or accountant to take into consideration changes in Net Revenue estimated to occur due to one or more of the following factors:

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

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

(3) the additional Net Revenue that would have been received if any customers added to the System prior to the date of such certificate and subsequent to the beginning of such 12-month period were customers for the entire period.

(g) ***"Annual Debt Service"*** means the amount required in a given fiscal year for the payment of the principal of and interest on Parity Bonds, except interest to be paid from the proceeds of Parity Bonds. With respect to any Term Bonds, the words "principal of and interest on Parity Bonds" shall be deemed to exclude from "principal" an amount of Term Bonds equal to the mandatory deposits of money into any sinking fund account to provide for payment of the principal of such Term Bonds, and from "interest" the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof all mandatory sinking fund deposits as of the date required and interest on the Term Bonds provided for by such deposits only to the dates of the respective deposits. In the event the City issues Future Parity Bonds which bear a variable rate of interest, the assumed interest rate for such variable rate Future Parity Bonds for purposes of forecasting Annual Debt Service shall be determined by reference to such indices as the City deems reasonable, taking into account the formula for calculating such variable interest rate.

(h) ***"Assessment Bonds"*** means the principal amount of Parity Bonds Outstanding at any time which is equal to the aggregate principal amount of nondelinquent Assessments remaining to be paid into the Debt Service Fund at such time plus the principal amount of Assessments previously paid and on deposit in the Debt Service Fund.

(i) ***"Assessments"*** means any special assessments which may be levied in any utility local improvement district of the City created for the Acquisition, construction or installation of additions and betterments to and extensions of the System, if such assessments are pledged to be paid into the Debt Service Fund or the Reserve Fund, and includes any installments of assessments and any interest or penalties which may be due thereon.

(j) ***"Average Annual Debt Service"*** means the average amount of the Annual Debt Service which will become due on Parity Bonds for the period from the date of such calculation until the final maturity date of the Parity Bonds then Outstanding.

(k) ***"Bond"*** means each bond authorized to be issued pursuant to this Ordinance.

(l) ***"Bond Counsel"*** means Foster Garvey P.C. or any firm of lawyers nationally recognized and accepted as bond counsel and so engaged by the City for that purpose.

(m) ***"Bond Purchase Contract"*** means, with respect to a Bond, the offer to purchase the Bond, presented by the Purchaser and accepted by the Designated Representative, setting forth certain terms and conditions of the issuance, sale and delivery of the Bond.

(n) ***"Bond Register"*** means the registration records of the City, maintained by the Registrar, on which shall appear the name and address of the Registered Owners of the Bonds.

(o) ***"City"*** means the City of Dayton, Washington.

(p) ***"Clerk"*** means the *de facto* or *de jure* Clerk of the City, or other officer of the City who is the custodian of the seal of the City and of the records of the proceedings of the Council, and the Clerk's successors in functions, if any.

(q) ***"Code"*** means the Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

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

(s) ***"Council"*** means the City Council of the City.

(t) ***"Debt Service Fund"*** means the City's "Water and Sewer System Debt Service Fund" created by Section 5.03 of Ordinance No. 1623.

(u) ***"Default Trustee"*** means the trustee appointed by the registered owners of Parity Bonds pursuant to Section 3.06(c) of this Ordinance if an Event of Default occurs.

(v) ***"Designated Representative"*** means the officer or employee of the City appointed in Section 2.02 of this Ordinance to serve as the City's Designated Representative in accordance with RCW 39.46.040 for purposes of accepting and executing, on behalf of the City, one or more Bond Purchase Contracts on terms consistent with this Ordinance and the parameters set forth herein.

(w) ***"Event of Default"*** has the meanings set forth in Section 3.06(a) of this Ordinance.

(x) ***"Final Terms"*** means the terms and conditions for the sale of the Bond, 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 minimum savings for refunding bonds (if the refunding bonds are being issued for savings purposes).

(y) ***"Future Parity Bonds"*** means any bonds that the City may hereafter issue pursuant to Section 3.05(i) hereof that are secured by a lien upon the Revenue of the System for

the payment of the principal thereof and interest thereon equal to the lien upon the Revenue of the System that secures payment of the principal of and interest on the Bonds.

(z) ***"Government Obligations"*** means direct obligations of, or obligations the timely payment of principal of and interest on which are unconditionally guaranteed by, the United States of America.

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

(bb) ***"Maximum Annual Debt Service"*** means an amount equal to the greatest Annual Debt Service with respect to Parity Bonds for the then current or any future fiscal year.

(cc) ***"Mayor"*** means the *de facto* or *de jure* Mayor of the City (including the Mayor pro tempore in the Mayor's absence), or any presiding officer or titular head of the City, and the Mayor's successors in functions, if any.

(dd) ***"Net Revenue"*** means the Revenue of the System less the Costs of Maintenance and Operation.

(ee) ***"Ordinance"*** means this Ordinance passed and approved by the Mayor and Council on September 9, 2020.

(ff) ***"Outstanding"*** when used with reference to Parity Bonds, as of any particular date, means all Parity Bonds that have been issued, executed, authenticated and delivered under the ordinances authorizing their issuance, except Parity Bonds canceled because of payment, redemption or defeasance prior to their stated dates of maturity.

(gg) ***"Parity Bonds"*** means the Bonds and any Future Parity Bonds.

(hh) ***"Purchaser"*** means, with respect to a Bond, the corporation, firm, association, partnership, bank, trust, or other legal entity or group of entities selected by the Designated Representative to purchase the Bond.

(ii) ***"Qualified Institutional Buyer"*** means a "qualified institutional buyer" as defined in Rule 144A, as promulgated under the Securities Act of 1933, as amended.

(jj) ***"Refunding Plan"*** means:

(i) the placement of sufficient proceeds of the Bonds, with other money of the City, if necessary, to be deposited with, as determined by the Designated Representative, the registered owner or the paying agent with respect to each Refunded Bond;

(ii) the payment of the principal of and interest on the Refunded Bonds when due up to and including such date or dates as determined by the Designated Representative, and the call, payment and redemption on such date or dates, of all of the Refunded Bonds; and

(iii) may include the payment of the costs of issuing the Bonds and the costs of carrying out the foregoing elements of the Refunding Plan.

(kk) ***"Refunded Bonds"*** means the maturities or principal installment payment amounts of the 2004A Bond, currently outstanding in the principal amount of $1,208,503.63, the 2010 Bonds, currently outstanding in the aggregate principal amount of $1,220,000.00, and the 2017 Bond, currently outstanding in the principal amount of $957,317.46.

(ll) ***"Registered Owner"*** means, with respect to a Bond, the person named as the registered owner of the Bond on the Bond Register.

(mm) ***"Registrar"*** means the fiscal agent of the State (as designated by the State Finance Committee from time to time pursuant to chapter 43.80 RCW), currently, U.S. Bank National Association, and any successors or assigns, who has been appointed by the Treasurer as registrar, authenticating agent, transfer agent, exchange agent and registrar with respect to a Bond in the manner provided in this Ordinance.

(nn) ***"Reserve Fund"*** means the City's "Water and Sewer System Reserve Fund" created by Section 5.04 of Ordinance No. 1623.

(oo) ***"Reserve Fund Facility"*** means a surety bond, insurance policy or letter of credit that constitutes all or a part of the Reserve Fund Requirement, provided such surety bond, insurance policy or letter of credit satisfies the conditions set forth in Section 3.04(b) of this Ordinance.

(pp) ***"Reserve Fund Requirement"*** means, for the Bonds and each issue of Future Parity Bonds secured by the Reserve Fund, an amount equal to the least of (1) Maximum Annual Debt Service; (2) 125 percent of the Average Annual Debt Service; and (3) 10 percent of the original proceeds (as defined under the Code) of each issue of Parity Bonds, reduced by the corresponding principal amount of any such series of Parity Bonds thereafter redeemed, prepaid, or defeased at the option of the City, in whole or in part.

(qq) ***"Revenue Fund"*** means, collectively, the City's existing sewer utility fund (currently, Fund No. 401) and the City's existing water utility fund (currently, Fund No. 403).

(rr) ***"Revenue of the System"*** means all earnings, revenue and money, except Assessments, received by the City from or on account of the operation of the System, including the income from investments of money in the Revenue Fund, debt service funds and reserve funds, or from any other investment thereof, except the income from investments irrevocably pledged to the payment of any other water and sewer revenue bonds pursuant to a plan of retirement or refunding. The words "Revenue of the System" also shall include any federal or state reimbursements of operating expenses to the extent such expenses are included as Costs of Maintenance and Operation of the System. The City may consider revenue derived from rates charged by a storm water sewer utility or system as "Revenue of the System" only to the extent such revenues are deposited into the Revenue Fund; provided nothing herein shall be construed as requiring the City to deposit such revenues into the Revenue Fund.

(ss) ***"State"*** means the State of Washington.

(tt) ***"State Loans"*** means the City's revenue obligations for borrowed money from the State Public Works Trust Fund, outstanding on July 31, 2020.

(uu) ***"System"*** means the City's combined water collection, treatment and distribution system and sewage collection and treatment system, as it now exists and as it may later be added to, extended and improved, and shall include buildings, structures, utilities or other income-producing facilities from the operation of or in connection with which revenues for the payment of Parity Bonds will be derived, and the lands appertaining thereto.

(vv) ***"Term Bonds"*** means any Parity Bonds that are identified as such upon the issuance thereof, the payment of which is provided for by a requirement for mandatory sinking fund deposits into the Debt Service Fund.

(ww) ***"Treasurer"*** means the appointive officer of the City who is responsible under the City Charter, if any, and/or City ordinance for fulfilling the various duties of a "city treasurer" specified in the Revised Code of Washington.

ARTICLE II. PROVISIONS PARTICULAR TO THE BONDS

Section 2.01 Authorization of the Bonds. The City is hereby authorized to issue, sell and deliver the Bonds for the purpose of providing the money required to accomplish the Refunding Plan and, if necessary, to fund the Reserve Fund Requirement for the Bonds. The Bonds shall be special obligations of the City payable solely out of the Debt Service Fund and the Reserve Fund, and shall be valid claims of the Registered Owners thereof only as against the Debt Service Fund, the Reserve Fund and the amount of Revenue of the System and Assessments pledged to those funds. The Bonds shall not be general obligations of the City. The City's full faith, credit and resources are not pledged for the payment of the Bonds.

Section 2.02 Authority to Approve Bond Purchase Contracts; Description of Bonds. It is anticipated that the Bonds will be sold to the Purchaser and that the Purchaser will present one or more Bond Purchase Contracts to the City offering to purchase the Bonds. Pursuant to RCW 39.46.040, the Treasurer, or in the absence or disability of the Treasurer, the Mayor, is hereby appointed as the City's Designated Representative and is authorized and directed on the City's behalf to accept the Final Terms of, and execute, one or more Bond Purchase Contracts subject to the parameters for such Final Terms set forth in Attachment A. Final Terms shall be confirmed in the Bond Purchase Contracts and/or separate certificates approved and executed by the Designated Representative in connection with the issuance of the Bonds. The authority granted to the Designated Representative by this Section 2.02, and the authority to issue any Bond pursuant to this Ordinance, shall expire on December 31, 2020.

Section 2.03 Form and Execution of the Bonds.

(a) Each Bond shall be prepared in a form consistent with the provisions of this Ordinance and State law and shall be signed by the Mayor and the 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. Each Bond shall be prepared at City

expense and shall be delivered to the Purchaser in accordance with the terms of the Bond Purchase Contract for the Bond, together with the approving legal opinion of Bond Counsel regarding the Bond.

(b) No Bond shall be valid or obligatory for any purpose, or entitled to the benefits of this Ordinance, unless the Bond bears a certificate of authentication manually signed by the Registrar stating: "This Bond is the fully registered City of Dayton, Washington, Water and Sewer Revenue Refunding Bond, 2020 [Series], described in the Bond Ordinance." A minor deviation in the language of such certificate shall not void a certificate of authentication that otherwise is substantially in the form of the foregoing. 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.

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

Section 2.04 Registrar, Registration and Transfer of Bonds.

Pursuant to RCW 39.46.030, the Treasurer has appointed the Registrar to act as the City's bond registrar, authenticating agent, transfer agent and exchange agent with respect to the Bonds. The Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which books shall be open to inspection by the City at all times. The Registrar is authorized, on behalf of the City, to authenticate and deliver each Bond transferred in accordance with the provisions of the Bond and this Ordinance, to serve as the City's paying agent for each Bond and to carry out all of the Registrar's powers and duties under this Ordinance. The Registrar shall be responsible for its representations contained in the Registrar's Certificate of Authentication on each Bond.

Each Bond may be assigned or transferred only: (a) in whole; (b) to a single investor that is a Qualified Institutional Buyer; (c) if endorsed in the manner provided thereon and surrendered to the Registrar; and (d) if the transferee provides the Registrar with an executed transfer certificate in substantially the form to be attached to the Bond. Any such transfer shall be without cost to the Registered Owner or transferee (other than any cost incurred by the Registered Owner or transferee in preparing and delivering such transfer certificate) and shall be noted on the Bond Register. The Registrar shall not be obligated to assign or transfer any Bond during the 15 days preceding any installment payment or prepayment date.

Section 2.05 Payment of the Bonds. Both principal of and interest on each Bond shall be payable in lawful money of the United States of America and shall be paid by check, draft or electronic transfer of the Registrar sent to the Registered Owner so that the Registered Owner receives payment when due at the address appearing on the Bond Register. Upon receipt of the

final installment payment of principal of and interest on each Bond, whether upon maturity or prepayment, the Registered Owner shall present and surrender the Bond to the Registrar to be destroyed or cancelled in accordance with law. If any installment of principal is not paid when due, the City shall be obligated to pay interest on that principal at the same rate provided in the Bond until that principal, together with interest thereon, is paid in full.

Section 2.06 Prepayment and Redemption Provisions.

(a) Each Bond shall be subject to prepayment and redemption at the option of the City on terms acceptable to the Designated Representative, as set forth in the Bond Purchase Contract for the Bond, consistent with the parameters set forth in Attachment A. Unless otherwise specified in the Bond Purchase Contract, if a Bond is subject to redemption, then the following Sections 2.06(b) and 2.06(c) shall apply.

(b) The City shall cause notice of any intended redemption of a Bond to be given not less than 15 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 at the time the Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the Registered Owner. Interest on that portion of the principal of a Bond called for redemption shall cease to accrue on the date fixed for redemption unless such principal is not redeemed when presented pursuant to the call.

(c) In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of the Bond by giving a notice of rescission to the affected Registered Owner at any time on or prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Bond shall remain Outstanding hereunder.

(d) The City reserves the right to purchase any or all of the Bonds offered to the City or in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 2.07 Refunding or Defeasance of the Bonds. The City may issue one or more refunding bonds pursuant to the laws of the State or use money available from any other lawful source to pay when due the principal of and interest on a Bond, or any portion thereof, included in a refunding or defeasance plan (the "Defeased Bond"), and to prepay, redeem and retire, refund or defease such Defeased Bond and to pay the costs of such refunding or defeasance. If the City deposits irrevocably with an escrow agent money and/or Government Obligations sufficient in amount, together with the earnings thereon, to pay the principal of and premium, if any, on the Defeased Bond becoming due, together with all interest accruing thereon to the due date, prepayment date or redemption date, and pays or makes provision for payment of all fees, costs and expenses of the escrow agent due or to become due with respect to the Defeased Bond, all liability of the System with respect to the Defeased Bond shall cease, the Defeased Bond shall be deemed not to be Outstanding hereunder and the Registered Owner of the Defeased Bond shall be restricted exclusively to the money and/or Government Obligations so deposited, together with any earnings thereon, for any claim of whatsoever nature with respect to the

Defeased Bond, and the escrow agent shall hold that money, Government Obligations and earnings in trust exclusively for the Registered Owner and that money, Government Obligations and earnings shall not secure any other Parity Bonds under this Ordinance. After establishing such an escrow account, the City may apply any money in any other fund or account established for the payment or redemption of a Defeased Bond to any lawful purposes as it shall determine, subject only to the rights of the Registered Owners of any other Parity Bonds then Outstanding. Defeased Bonds shall be excluded from computation of the Coverage Requirements and other covenants under this Ordinance.

Section 2.08 Pledge of Revenue and Lien Position. There are hereby pledged, for the equal and ratable benefit of the Registered Owners of the Bonds from time to time, as security for the payment of the principal of, premium, if any, and interest on the Bonds: (1) all Net Revenue and all rights of the City to receive Net Revenue; (2) all Assessments; and (3) all money and securities held in the Debt Service Fund and the Reserve Fund, including the investments thereof, if any, and subject to the provisions of this Ordinance permitting the application of amounts hereunder to the purposes set forth herein. Such pledge is hereby declared to be a prior lien and charge on the foregoing superior to all other liens and charges of any kind whatsoever, except that such lien and charge shall be on a parity with the lien and charge that secures any Outstanding Parity Bonds. The lien and charge created by this Ordinance are hereby declared to be senior to the lien that secures the State Loans.

Section 2.09 Preservation of Tax Exemption for Interest on the Bonds. The City covenants that it will take all actions necessary to prevent interest on the 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 the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds that will cause interest on the Bonds to be included in gross income for federal income tax purposes.

Section 2.10 Designation of Bonds as "Qualified Tax-Exempt Obligations". The City designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code, and makes the following findings and determinations: (1) the Bonds do not constitute "private activity bonds" within the meaning of Section 141 of the Code; (2) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) that the City and any entity subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) will issue during 2020 will not exceed $10,000,000; and (3) the amount of tax-exempt obligations, including the Bonds, designated by the City as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code during 2020 will not exceed $10,000,000.

Section 2.11 Compliance Policies. The Treasurer is authorized to review, update and implement the City's policies and procedures to facilitate compliance by the City with the applicable requirements of the Code and related covenants in the Ordinance that must be satisfied after the Issue Date to prevent interest on the Bonds from being included in gross income for federal tax purposes.

ARTICLE III. PROVISIONS GOVERNING ALL PARITY BONDS

Section 3.01 Application of Revenue of the System. All Revenue of the System shall be deposited into the Revenue Fund as collected, and shall be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation;

Second, to pay the interest on Parity Bonds;

Third, to pay the principal of Parity Bonds, and to make any mandatory sinking fund deposits required to be made for the payment of the principal of any Term Bonds;

Fourth, to make all payments required to be made into the Reserve Fund to secure the payment of Parity Bonds, and to make any payments required in connection with any Reserve Fund Facility; and

Fifth, for any other lawful City purposes, including payments due on the State Loans, payments of municipal taxes or payments to the City in lieu of taxes, the payment of the principal of and interest on any obligations secured by a lien upon the Revenue of the System junior and inferior to the lien thereon that secures payment of the principal of and interest on Parity Bonds, the redemption or by purchase in the open market of any obligations of the City payable out of the Revenue of the System, and the Acquisition and construction of additions, betterments, improvements and repairs to, or extensions and replacements of, the System.

Section 3.02 The Revenue Fund. There has heretofore been created and shall continue to be maintained in the office of the Treasurer, separate and distinct from all other funds and accounts of the City, the City's sewer utility fund (currently, Fund No. 401) and the City's water utility fund (currently, Fund No. 403). Such funds are collectively referred to herein as the "Revenue Fund." Money shall be withdrawn from the Revenue Fund solely for the purposes, and in the priority of order, set forth in Section 3.01 of this Ordinance.

Section 3.03 The Debt Service Fund.

(a) The Treasurer is directed to create and maintain the Debt Service Fund as a fund of the City that is separate and distinct from all other funds and accounts of the City. The Debt Service Fund shall be used solely for the purpose of paying the principal of, premium, if any, and interest on Parity Bonds. Accrued interest received from the sale of Parity Bonds, if any, shall be deposited in the Debt Service Fund. All Assessments shall be deposited in the Debt Service Fund.

(b) The City hereby irrevocably obligates, pledges and binds itself to set aside and pay from Net Revenue into the Debt Service Fund, together with Assessments and such other funds as are on hand and available in the Debt Service Fund, the amounts necessary to pay installments of interest, or principal and interest, on Parity Bonds when due.

(c) Money in the Debt Service Fund may be invested as permitted by law, provided such investments shall mature prior to the date on which such money is needed for

required scheduled payments (whether such scheduled payments are of interest or of interest and principal). All interest earned and income derived by virtue of such investments shall remain in the Debt Service Fund. Subject to the other provisions of this paragraph, money in the Debt Service Fund and the Reserve Fund may be combined for the purpose of purchasing investments, *provided*, the records of the City shall show to which account the respective portions of any such combined investments are credited.

Section 3.04 The Reserve Fund.

(a) The Reserve Fund has heretofore been created and shall continue to be maintained in the office of the Treasurer separate and distinct from all other funds and accounts of the City. The Reserve Fund shall be used for the purpose of securing the payment of the principal of and interest on the Bonds and any Future Parity Bonds secured by the Reserve Fund. On the Issue Date of each Bond, the City shall cause money to be deposited into the Reserve Fund in an amount sufficient to fully fund the Reserve Fund Requirement.

The City hereby covenants and agrees that, when the required deposits have been made into the Reserve Fund, it will at all times maintain therein an amount not less than the Reserve Fund Requirement, except as otherwise expressly permitted by this Ordinance. The City reserves the right to recalculate the Reserve Fund Requirement from time to time, and at any time. Whenever there is a sufficient amount in the Debt Service Fund and the Reserve Fund to pay the principal of, premium, if any, and interest on the Bonds and all Future Parity Bonds secured by the Reserve Fund then Outstanding, the money in the Reserve Fund may be used to pay such principal, premium and interest, and no further money need be deposited into the Debt Service Fund. Money in the Reserve Fund may also be withdrawn to prepay or redeem and retire, and to pay the premium, if any, and interest due to such date of prepayment or redemption on, any Parity Bonds secured by the Reserve Fund, so long as the money remaining on deposit in the Reserve Fund is not less than the Reserve Fund Requirement. If at any time the amount in the Reserve Fund exceeds the Reserve Fund Requirement, such surplus may be deposited into the Debt Service Fund.

In the event there shall be a deficiency in the Debt Service Fund such that principal of and interest on the Bonds and any Future Parity Bonds secured by the Reserve Fund cannot be paid when due, the deficiency shall be made up from the Reserve Fund first, by the withdrawal of money therefrom and second, by pro rata draws on each Reserve Fund Facility. Any deficiency created in the Reserve Fund by reason of any such withdrawal shall then be made up within no more than 12 months in approximately equal monthly installments out of Revenue of the System after making necessary provision for the payments required to be made by subparagraphs *First* through *Third* of Section 3.01 of this Ordinance first, to reinstate each Reserve Fund Facility, pro rata, and second, to make up any remaining deficiency.

(b) In lieu of or in substitution for money or investments, the City may fund the Reserve Fund with one or more Reserve Fund Facilities for the benefit of the registered owners of Parity Bonds secured by the Reserve Fund for all or any part of the Reserve Fund Requirement, *provided* that:

(1) each Reserve Fund Facility that is a surety bond or insurance policy shall be issued by an insurance company or association duly authorized to do business in the State, and either: (A) the claims paying ability of the insurance company or association is rated in one of the two highest rating categories accorded by a nationally recognized insurance rating agency; or (B) obligations insured by a surety bond or an insurance policy issued by the insurance company or association are rated at the time the surety bond or insurance policy is delivered, without regard to qualification of such rating by symbols such as "+" or "-" or numerical notation, in one of the three highest rating categories by Moody's Investors Service, Inc. or S&P Global Ratings;

(2) each Reserve Fund Facility that is a letter of credit shall be issued by a bank, a trust company, a national banking association, a corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or any successor provision of law, a federal branch pursuant to the International Banking Act of 1978 or any successor provision of law or a domestic branch or agency of a foreign bank which branch or agency is duly licensed or authorized to do business under the laws of any state or territory of the United States, the unsecured or uncollateralized long-term debt obligations of which, or long-term obligations secured or supported by a letter of credit issued by such person, are rated at the time the letter of credit is delivered, without regard to qualification of such rating by symbols such as "+" or "-" or numerical notation, in one of the three highest rating categories by Moody's Investors Service, Inc. or S&P Global Ratings; and

(3) prior to funding the Reserve Fund with a Reserve Fund Facility, the Treasurer shall have received: (A) an opinion of counsel to the effect that the Reserve Fund Facility has been duly authorized, executed and delivered by the provider thereof and is enforceable in accordance with its terms; and (B) in the event such provider is not a domestic entity, an opinion of foreign counsel in form and substance satisfactory to the City.

Notwithstanding the foregoing, if at any time after a Reserve Fund Facility has been credited to the Reserve Fund the unsecured or uncollateralized long-term debt of the provider thereof, or the long-term debt obligations secured or unsecured by a surety bond, insurance policy or letter of credit of the provider thereof, is reduced below the rating required by paragraphs (1) and (2) of this subsection (c), the City shall, within 12 months after the reduction in the rating, either: (i) replace or cause to be replaced the Reserve Fund Facility with another Reserve Fund Facility that satisfies the requirements set forth in paragraphs (1) and (2) of this subsection (c); or (ii) deposit or cause to be deposited in the Reserve Fund an amount of money or investments that is equal to the value of the Reserve Fund Facility of such provider, such deposits to be made from Net Revenue after making necessary provision for the payments required to be made by subparagraphs *First* through *Third* of Section 3.01 of this Ordinance.

Each Reserve Fund Facility shall be payable (upon the giving of such notice as may be required thereby) on any date on which money is required to be withdrawn from the Reserve Fund and such withdrawal cannot be made without obtaining payment under the Reserve Fund Facility.

In computing the amount on deposit in the Reserve Fund, each Reserve Fund Facility shall be valued at the amount available to be paid thereunder on the date of computation;

provided that, if the unsecured or uncollateralized long-term debt of the provider of a Reserve Fund Facility, or if the long-term debt obligations secured or supported by a surety bond, insurance policy or letter of credit of the provider, has been reduced below the ratings required by paragraphs (1) and (2) of this subsection (c), the Reserve Fund Facility shall be valued at the lesser of: (i) the amount available to be paid thereunder on the date of calculation; and (ii) the difference between the amount available to be paid thereunder on the date of issue thereof and an amount equal to a fraction of the available amount, the numerator of which is the aggregate number of principal and interest payment dates that has elapsed since the rating was reduced and the denominator of which is two; provided, however, that in no event shall the Reserve Fund Facility be valued at less than zero.

(c) Money in the Reserve Fund may be invested as permitted by law, provided such investments shall be available to pay any deficiencies that may occur in the Debt Service Fund. All interest earned and income derived by virtue of such investments shall be deposited into either the Debt Service Fund or the Reserve Fund, as the Treasurer deems necessary, and be used to meet the required deposits therein. Subject to the other provisions of this paragraph, money in the Debt Service Fund and the Reserve Fund may be combined for the purpose of purchasing investments, provided, the records of the City shall show to which account the respective portions of any such combined investments are credited.

(d) The City may establish a separate reserve fund requirement for any or all Future Parity Bonds, which may be zero, and may establish one or more separate reserve subaccounts for any or all Future Party Bonds. Any money in or Reserve Fund Facility credited to a separate reserve subaccount may be used only to pay principal of and interest on those Future Parity Bonds secured by the separate reserve subaccount; provided, at any time the amount in a reserve subaccount exceeds the reserve fund requirement for the Future Parity Bonds secured by the reserve subaccount, such surplus may be deposited into the Debt Service Fund.

Section 3.05 Covenants.

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

(b) *Rates and Charges.* The City has established, may from time to time revise, and shall maintain and collect from the users of the System, rates and charges for furnishing the services and the facilities of the System to such users thereof. Such rates and charges are, and shall continue to be, uniform as to all persons or properties which are of the same class. The City shall also collect all Assessments, if any, when due. The City shall fix, maintain and collect rates and charges for the use of the services and facilities and all commodities sold, furnished or supplied by the System, which shall be fair and nondiscriminatory, and shall adjust such rates and charges from time to time so that:

(i) the Revenue of the System, together with any Assessments collected, will at all times be sufficient: (a) to pay Costs of Maintenance and Operation when due; (b) to make when due any payments required to be made on account of Parity Bonds and the State Loans; (c) to make when due all payments the City is obligated to make into the Reserve Fund; (d) to make when due all other payments the City is obligated to make pursuant to this Ordinance; and (e) to pay when due all taxes, assessments or other governmental charges lawfully imposed on the System or the Revenue of the System, or payments in lieu thereof, and any and all other amounts which the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract; and

(ii) the Net Revenue for, together with Assessments allocated to, each fiscal year will be not less than: (a) 1.00 times the Annual Debt Service of Assessment Bonds then Outstanding; plus (b) 1.25 times the Annual Debt Service of Parity Bonds then Outstanding that are not Assessment Bonds.

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

(i) an amount which will be in the same proportion to the net amount of the Parity Bonds then Outstanding (defined as the total principal amount of Parity Bonds then Outstanding less the amount of cash and investments then on deposit in the Debt Service Fund and the Reserve Fund) that the revenue from the portion of the System sold or disposed of for the preceding fiscal year bears to the total Revenue of the System for such period; or

(ii) an amount which will be in the same proportion to the net amount of the Parity Bonds then Outstanding (as defined above) that the Net Revenue from the portion of the System sold or disposed of for the preceding fiscal year bears to the total Net Revenue for such period.

The proceeds of any such sale or disposition of a portion of the properties and facilities of the System (to the extent required above) shall be paid into the Debt Service Fund (or such other sinking fund).

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

(d) *Liens and Encumbrances.* The City will not at any time create or permit to accrue or to exist any lien or other encumbrance or indebtedness upon the System or the Revenue of the System, or any part thereof, prior or superior to the lien thereon that secures 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 Revenue of the System, or any part thereof, prior to or superior to the lien thereon that secures payment of the Parity Bonds, or that might impair the security of Parity Bonds. Notwithstanding the foregoing, the City may contest in good faith claims for labor, materials and supplies.

(e) *Insurance.* The City will keep the works, plants and facilities comprising the System insured, and will carry such other insurance, with responsible insurers, with policies payable to the City, against risks, accidents or casualties, at least to the extent that insurance is usually carried by municipal 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 registered owners 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 System, the proceeds of such insurance shall be paid into the Debt Service Fund (or another sinking fund pledged to the payment of Parity Bonds) for the redemption of Parity Bonds.

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

(g) *No Free Service.* Except to aid the poor or infirm, to provide for resource conservation or to provide for the proper handling of hazardous materials, the City will not furnish or supply or permit the furnishing or supplying of any service or facility furnished by or in connection with the operation of the System, free of charge to any person, firm or corporation, public or private.

(h) *Improvements to the System.* The City will not expend any of the Revenue of the System or the proceeds of any indebtedness payable therefrom for any extensions, betterments and improvements to the System that are not legally required or economically sound, and that will not properly and advantageously contribute to the conduct of the business of the System in an efficient manner.

(i) *Issuance of Future Parity Bonds.* The City may issue Future Parity Bonds under the conditions in this Section 3.05(i).

(i) Secured by the Debt Service Fund. The ordinance authorizing the issuance of the proposed Future Parity Bonds must provide for the payment of the principal of and interest on such Future Parity Bonds out of the Debt Service Fund and must require that all Assessments imposed in connection with those Future Parity Bonds (if any) will be deposited in the Debt Service Fund.

(ii) No Debt Service Fund Deficiencies; Reserve Fund Requirement Met. At the time of issuance of the proposed Future Parity Bonds, there may not be any deficiency in the Debt Service Fund and any ordinance authorizing the issuance of Future Parity Bonds to be secured by the Reserve Fund must provide for the deposit into the Reserve Fund of amounts necessary to fully fund the Reserve Fund Requirement.

(iii) Calculations for Issuing Future Parity Bonds. At the time of the issuance of the proposed Future Parity Bonds, the City must have on file either:

(1) A certificate of the Treasurer demonstrating that, upon the issuance of the proposed Future Parity Bonds, Net Revenue plus Assessments deposited in the Debt Service Fund during the fiscal year preceding the year in which the proposed Future Parity Bonds are to be issued was not less than: (A) 1.00 times the Annual Debt Service of Assessment Bonds then Outstanding plus (B) 1.25 times the Annual Debt Service of all Parity Bonds then Outstanding that are not Assessment Bonds.

(2) A certificate of an engineer or accountant demonstrating that, upon the issuance of the proposed Future Parity Bonds, Adjusted Net Revenue plus Assessments deposited in the Debt Service Fund during the fiscal year preceding the year in which the proposed Future Parity Bonds are to be issued was equal to at least: (A) 1.00 times the Annual Debt Service of Assessment Bonds then Outstanding plus (B) 1.25 times the Annual Debt Service of all Parity Bonds then Outstanding that are not Assessment Bonds.

(iv) *Subordinate Lien Bonds*. Nothing herein contained shall prevent the City from issuing revenue bonds or other obligations that are a charge upon the Revenue of the System junior or inferior to the payments required by this Ordinance to be made out of Revenue of the System into the Debt Service Fund and the Reserve Fund to pay and secure the payment of Parity Bonds.

(v) *Refunding Bonds*. The restrictions set forth in Section 3.05(i)(iii) shall not apply in the event the City issues Future Parity Bonds to refund all or a portion of the Parity Bonds then Outstanding, provided: (1) the annual maturities of the refunding bonds do not extend over a longer period of time than the Parity Bonds being refunded; and (2) the sum of the principal and interest due on the refunding bonds in each fiscal year does not exceed by more than $5,000 the sum of the principal of and interest that would otherwise have been due on the refunded Parity Bonds. Notwithstanding the foregoing, this subsection Section 3.05(i) shall not prevent the City from issuing revenue bonds to refund maturing Parity Bonds for the payment of which money is not otherwise available.

Section 3.06 Events of Default.

(a) *Events of Default Defined.* Each of the following shall be an "Event of Default" hereunder:

(i) payment of the principal or redemption price of, or interest on, any Parity Bond is not made when it becomes due and payable at maturity or upon call for redemption; or

(ii) the City fails or refuses to comply with any of its covenants hereunder, other than the timely payment of the principal of, redemption price, or interest on any Parity Bonds (to which no cure period shall apply), and such failure or refusal continues for a period of 90 days after written notice thereof has been given to the City by the Registrar or by the registered owners of not less than 25 percent in principal amount of Parity Bonds then Outstanding.

(b) *No Acceleration.* If an Event of Default shall happen and shall not have been remedied, the Parity Bonds shall not be subject to acceleration of payment, and each installment of principal of and interest on Parity Bonds shall be payable when due.

(c) *Proceedings Brought by Registered Owners.* If an Event of Default happens and is not remedied, then the registered owners of not less than 25 percent in principal amount of Parity Bonds then Outstanding may proceed, by their agents and attorneys, to protect and enforce their rights under this Ordinance forthwith by a suit in equity or at law, whether for the specific performance of any covenant herein contained, or in aid of the execution of any power herein granted, or for an accounting against the City as if the City were the trustee of an express trust, or in the enforcement of any other legal or equitable right as the legal representative of the registered owners shall deem most effectual to enforce any of their rights, and such registered owners may appoint a default trustee (the "Default Trustee") to represent the interests of all registered owners of Parity Bonds.

All rights of action under this Ordinance may be enforced by any Default Trustee without either the possession of any Parity Bonds or the production thereof at the trial or other proceedings, and any such suit or proceedings instituted by the Default Trustee shall be brought in its name.

The registered owners of not less than a majority in principal amount of the Parity Bonds then Outstanding may direct the time, method and place of conducting any proceeding for any remedy available to them provided that the Default Trustee shall have the right to decline to follow any such direction if the Default Trustee shall be advised by counsel that the action or proceeding so directed may not lawfully be taken, or if the Default Trustee in good faith shall determine that the action or proceeding so directed would involve the Default Trustee in personal liability or be unjustly prejudicial to the registered owners who are not parties to such direction.

The Default Trustee shall have the power to institute and maintain such suits and proceedings as it may be advised shall be necessary or expedient to prevent any impairment of the security under this Ordinance by any acts that may be unlawful or in violation of this Ordinance, and such suits and proceedings as the Default Trustee may be advised shall be

necessary or expedient to preserve or protect the interests of the registered owners of Parity Bonds.

(d) *Restriction on Action of Registered Owners*. Except as otherwise provided above, no registered owner of Parity Bonds shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of any provision of this Ordinance or for any remedy under this Ordinance, unless such registered owner shall have previously given to the City written notice of the happening of an Event of Default, and shall have offered it reasonable opportunity, either to: (1) exercise the powers granted in this Ordinance or by the laws of the State; or (2) institute such action, suit or proceeding in its own name, it being understood and intended that no one or more registered owners of Parity Bonds shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the pledge created by this Ordinance, or to enforce any right under this Ordinance, except in the manner herein provided; and that all proceedings at law or in equity to enforce any provision of this Ordinance shall be instituted, had and maintained in the manner provided in this Ordinance and for the equal benefit of all registered owners of Parity Bonds.

Nothing in this Ordinance or the Bonds shall affect or impair the obligation of the City, which is absolute and unconditional, to pay from the sources provided in this Ordinance at the respective dates of maturity and places therein expressed the principal of, premium, if any, and interest on each Bond to the Registered Owner thereof, or affect or impair the right of action, which is also absolute and unconditional, of the Registered Owner to enforce such payment of the Bond.

(e) *Remedies Not Exclusive*. No remedy herein conferred is intended to be exclusive of any other remedy or remedies, and each remedy is in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(f) *Delays and Omissions Not to Impair Rights*. No delays or omissions in respect of exercising any right or power accruing upon any default shall impair such right or power or be a waiver of such default, and every remedy given by this Section 3.06 may be exercised from time to time and as often as may be deemed expedient.

ARTICLE IV. REFUNDING OF THE REFUNDED BONDS

Section 4.01 Use of Bond Proceeds. The proceeds of the sale of the Bonds to be used to carry out the Refunding Plan shall be deposited immediately upon the receipt thereof with the registered owner or the paying agent of each Refunded Bond, as determined by the Designated Representative, and used to discharge the obligations of the City relating to the Refunded Bonds by providing for the payment of the amounts required to be paid by the Refunding Plan. With respect to proceeds of the Bonds deposited with a registered owner of a Refunded Bond, the obligations with respect to such Refunded Bond shall be discharged fully upon such deposit in the amount required to be paid by the Refunding Plan. With respect to proceeds of the Bonds deposited with a paying agent for a Refunded Bond, the obligations with respect to such Refunded Bond shall be discharged fully by the paying agent's simultaneous deposit in the bond fund for the Refunded Bond cash in the amount required to be paid by the Refunding Plan, and such paying agent is authorized and directed to make the payments required to be made by the

Refunding Plan. Any proceeds of the Bonds or other money not needed to carry out the Refunding Plan or pay the costs of issuance of the Bonds shall be returned to the City at the time of delivery of the Bonds to the initial Purchaser thereof and deposited in the Debt Service Fund to pay interest on the Bonds on the first interest payment date.

Section 4.02 Call for Redemption of the Refunded Bonds. The City calls for redemption on such date or dates as determined by the Designated Representative, all of the Refunded Bonds at par plus accrued interest. Such call for redemption shall be irrevocable after the delivery of the Bonds to the initial Purchaser thereof. The proper City officials are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to the applicable ordinance authorizing the issuance of each Refunded Bond in order to effect the redemption of each Refunded Bond prior to maturity.

Section 4.03 Findings with Respect to Refunding. The City Council finds and determines that modifying debt service, covenants and other terms of the Refunded Bonds under the Refunding Plan will allow the City to consolidate prior debt under uniform covenants and terms and release existing reserves to retire existing debt, all in the best interests of the City.

ARTICLE V. MISCELLANEOUS PROVISIONS

Section 5.01 Amendments to Ordinance.

(a) *Adoption of Supplemental Ordinances.* The Council may adopt an ordinance supplemental hereto, which ordinance thereafter shall become a part of this Ordinance, for any one or more of all of the following purposes: (1) to add to or delete from the covenants and agreements of the City in this Ordinance, provided such additions or deletions shall not adversely affect, in any material respect, the interests of the registered owners of Parity Bonds; or (2) to cure, correct or supplement any ambiguous or defective provision contained in this Ordinance, provided such supplemental ordinance shall not adversely affect, in any material respect, the interests of the registered owners of Parity Bonds. Any such supplemental ordinance may be adopted without the consent of the registered owners of Parity Bonds.

(b) *Amendments with Consent of the Registered Owners of all Parity Bonds.* With the consent of the registered owners of all Parity Bonds then Outstanding, the Council may adopt an ordinance supplemental hereto for the purpose of adding any provisions to, or changing in any manner, or eliminating any of the provisions of this Ordinance. It shall not be necessary for the consent of the registered owners of Parity Bonds under this subsection to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof.

(c) *Effect of Amendments.* Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section 5.01, this Ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the City under this Ordinance and the registered owners of Parity Bonds shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modification 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.

(d) *Notations; Replacement Parity Bonds*. Parity Bonds executed and delivered after the execution of any supplemental ordinance adopted pursuant to the provisions of this Section 5.01 may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new Parity Bonds so modified as to conform in the opinion of the Council to any modification of this Ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the registered owners of such Parity Bonds, upon surrender for cancellation of such Parity Bonds.

Section 5.02 General Authorization; Ratification; and Limitation on Recourse. The Mayor, the Clerk and the Treasurer are each authorized to take any actions and to execute documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated by, this Ordinance and the Bond Purchase Contracts (including everything necessary for the prompt delivery of the Bonds to the Purchaser and the proper application and use of the proceeds of the sale thereof). All actions heretofore taken in furtherance thereof and not inconsistent with the provisions of this Ordinance are hereby ratified and confirmed in all respects. No recourse shall be had for any claim based on this Ordinance or the Bonds against any Council member, officer or employee, past, present or future, of the City or of any successor body as such, either directly or through the City or any such successor body, under any constitutional provision, statute or rule of law or by the enforcement of any assessment or penalty or otherwise.

Section 5.03 Severability. If any provision of this Ordinance shall be 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 provisions of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the Bond.

Section 5.04 Effective Date. This Ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law. The Clerk is directed to cause this Ordinance, or a summary hereof, to be published in the official newspaper of the City.

PASSED by the City Council of the City of Dayton, Washington, at a regular open public meeting thereof held on September 9, 2020.

CITY OF DAYTON, WASHINGTON

Zac Weatherford, Mayor

ATTESTED:

Trina Cole, City Clerk

(S E A L)

FG:53768530.3

CERTIFICATION

I, Trina Cole, the City Clerk of the City of Dayton, Washington (the "City"), hereby certify as follows:

1. The foregoing Ordinance No. ____ (the "Ordinance") is a full, true and correct copy of the Ordinance duly passed at a regular meeting of the City Council of the City held on September 9, 2020 (the "Meeting"), as that Ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper;

2. Pursuant to various proclamations and orders issued by the Governor of the State of Washington, (a) the Meeting was not conducted in person and (b) options were provided for the public to attend the Meeting remotely, including by telephonic access and, as available, internet access, which options provided the ability for all persons attending the Meeting remotely to hear each other at the same time; and

3. The Meeting was duly convened and held in all respects in accordance with law, the public was notified of the access options for remote attendance via the City's website, 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.

IN WITNESS WHEREOF, I have hereunto set my hand on September 9, 2020.

CITY OF DAYTON, WASHINGTON

Trina Cole

Trina Cole, City Clerk

(S E A L)

ATTACHMENT A

Parameters For Final Terms

(a)	Principal Amount.	The Bonds may be issued in the aggregate principal amount of not to exceed $3,500,000.
(b)	Date.	Each Bond shall be dated its Issue Date, which date shall occur on or before December 31, 2020.
(c)	Interest Rate.	Each Bond shall bear interest at a fixed rate or rates *per annum* from the Issue Date of the Bond or from the most recent interest payment date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for each Bond. No rate of interest for any Bond may exceed 4.00% The Bond Purchase Contract for each Bond shall specify whether interest shall be computed using the 30/360, actual/360 or actual/actual convention.
(d)	Debt Service Schedule.	The Designated Representative is authorized to select the timing and manner of debt service payments for the Bonds, which shall be set forth in each Bond Purchase Contract; provided, regularly scheduled debt service payment dates shall occur only on June 1 and/or December 1.
(e)	Maturity Date.	December 1, 2044, or such earlier date specified in each Bond Purchase Contract.
(f)	Redemption Rights.	The Designated Representative may approve in each Bond Purchase Contract provisions for the prepayment or redemption of Bonds prior to maturity; provided, no prepayment or redemption premium, penalty or fee may exceed 1.00% of the principal amount prepaid or redeemed.
(g)	Price.	Each Bond shall be purchased at the price of 100% of the stated principal amount.
(h)	Bond Sale Proceeds.	The Designated Representative shall determine the amounts of Bond sale proceeds received from the Purchaser to be (1) deposited into the Debt Service Fund, (2) deposited into the Reserve Fund, (3) deposited with the registered owner or paying agent of each Refunded Bond for purposes of accomplishing the Refunding Plan, (4) retained by the Purchaser as a fee

and reimbursement of expenses, and/or (5) paid directly to third parties as Bond issuance costs.

(i) Other Terms and Conditions. The Designated Representative is authorized to accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this Ordinance, including without limitation the acceptance of financial reporting requirements, and take such additional action as may be necessary or convenient for the issuance of the Bonds pursuant to the terms of this Ordinance and to carry out the Refunding Plan.