

File with original Ord. # 630

PRESTON, THORGRIMSON & HOROWITZ
ATTORNEYS AT LAW
NORTHERN LIFE TOWER
SEATTLE 1,

January 23, 1953

Mr. Charles W. Johnson Jr.
City Attorney
Kirkland, Washington

Dear Charlie:

Re: City of Kirkland water and Sewer
Revenue Bonds, 1952 - \$60000

This will acknowledge receipt of your letter of January 21, regarding the pledge contained in subsection (a), Section 4 of Ordinance No. 630 of the payment of moneys into the Bond Redemption Fund in the amount necessary to pay the interest coming due during 1953 on the above mentioned bonds.

This is obviously a typographical error made by whoever changed the maturity schedule found on page 2 and the date of the first payment into the Bond Redemption Fund for principal found in subsection (b) of Section 4.

Obviously, there can be no default in the payment of this interest; therefore, the date as shown in the original ordinance in subsection (a) should be disregarded, and the treasurer must pay the amounts into the Bond Redemption Fund necessary to pay the interest coming due in 1953.

Very truly yours,

PRESTON, THORGRIMSON & HOROWITZ

By Richard Thorgrimson
Richard Thorgrimson

RT:hf

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, as follows:

Section 1. That for the purpose of providing funds to acquire, construct and install certain additions and improvements to the combined water and sewerage system of the city as provided in Ordinance No. 627 passed and approved August 7, 1952, the city shall now issue and sell its water and sewer revenue bonds in the total principal sum of \$60,000.

Said bonds shall be dated September 1, 1952, shall be in denominations of \$1,000 each, shall be numbered from 1 to 60, inclusive, shall bear interest at the rate of 3% per annum, payable semiannually on the first days of March and September of each year, and shall mature in order of their number as follows:

	XXXXXXXXXXXXXX	\$4,000	September 1, 1961	\$4,000
1-4	September 1, 1954	4,000	September 1, 1962	4,000
5-8	September 1, 1955	4,000	September 1, 1963	4,000
9-12	September 1, 1956	4,000	September 1, 1964	4,000
13-16	September 1, 1957	4,000	September 1, 1965	4,000
17-20	September 1, 1958	4,000	September 1, 1966	4,000
21-24	September 1, 1959	4,000	September 1, 1967	4,000
25-28	September 1, 1960	4,000	September 1, 1968	4,000

Both principal and interest of said bonds shall be payable in lawful money of the United States of America at the office of the City Treasurer in Kirkland, Washington, and shall be obligations only against the special bond redemption fund created by this ordinance.

The City of Kirkland hereby reserves the right to redeem any or all of the outstanding bonds of this issue at par in inverse numerical order on any interest payment date on and after ten years from date of issue.

Notice of any such intended redemption shall be given by one publication thereof in the official city newspaper

not more than forty nor less than thirty days prior to said redemption date and by mailing a like notice at the same time to Grande & Co., Inc. and H. P. Pratt & Company at their places of business in Seattle, Washington. Interest on any bond or bonds so called for redemption shall cease on such redemption date.

Section 2. Said bonds shall be in substantially the following form:

No. _____

\$1,000

UNITED STATES OF AMERICA

STATE OF WASHINGTON
CITY OF KIRKLAND

WATER AND SEWER REVENUE BOND,
1952

KNOW ALL MEN BY THESE PRESENTS:

That the City of Kirkland, a municipal corporation of the State of Washington, hereby acknowledges itself to owe and for value received, promises to pay to bearer on the first day of September, 19____, the principal sum of

ONE THOUSAND DOLLARS

together with interest thereon at the rate of 3% per annum, payable semiannually on the first days of March and September of each year, as evidenced by and upon presentation and surrender of the attached interest coupons as they severally become due. Both principal and interest are payable in lawful money of the United States of America at the Office of the City Treasurer in Kirkland, Washington, solely out of the special fund of the city known as "Kirkland, 1952, Water and Sewer Revenue Bond Redemption Fund" created by Ordinance No. _____ of the city.

The city has reserved the right to redeem any or all of the outstanding bonds of this issue at par in inverse numerical order on any interest payment date on and after ten years from date hereof. Notice of any such intended redemption shall be given by one publication thereof in the official city newspaper not more than forty nor less than thirty days prior to said redemption date and by mailing a like notice at the same time to Grande & Co., Inc., and H. P. Pratt & Company at their places of business in Seattle, Washington.

This bond is one of an issue of water and sewer revenue bonds of the city of like date and tenor in the total principal sum of \$60,000, which bonds are issued for the purpose of providing funds to acquire, construct and install certain additions and improvements to the combined water and sewerage system of the city and is payable solely out of the gross revenue of said combined system.

The City of Kirkland hereby covenants and agrees with the holder of this bond that it will keep and perform all the covenants of this bond and of Ordinances No. 627 and No. _____ to be by it kept and performed.

The city does hereby pledge and bind itself to set aside out of the gross revenue of said combined water and sewerage system and all additions and improvements thereto, and to pay into said bond redemption fund and the reserve account created therein by said Ordinance No.

_____ the various amounts required by said ordinance to be paid into and maintained in said fund and account, all within the times provided by said ordinance. Said amounts so pledged are hereby declared to be a prior lien and charge upon the gross revenue of said combined system, including all additions and improvements thereto superior to all other charges of any kind or nature except the necessary cost of maintenance and operation of said combined system, and except the charges necessary to pay the principal and interest of the previously issued and outstanding water and sewer revenue bonds of the city.

The city has further bound itself to maintain said combined system in good condition and repair, to operate the same in an efficient manner and at a reasonable cost and to establish, maintain and collect rates and charges for water and sewage disposal service that will provide revenue equal to at least 1.4 times the average annual amount required to pay the principal and interest of the previously issued and outstanding water and sewer revenue bonds of the city, the bonds of this issue and any water and sewer revenue bonds which may be issued on a parity with the bonds of this issue after necessary costs of maintenance and operation of said combined system have been paid, but before depreciation.

It is hereby certified and declared that said bonds are issued pursuant to and in strict compliance with the constitution and laws of the State of Washington and ordinances of the City of Kirkland and that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed as required by law.

IN WITNESS WHEREOF the City of Kirkland has caused this bond to be signed by its Mayor and attested by its Clerk under the corporate seal of the city, and

the interest coupons attached hereto to be signed with the facsimile signatures of said officials this 1st day of September, 1952.

CITY OF KIRKLAND, WASHINGTON

By _____
Mayor

ATTEST:

City Clerk

The interest coupons to be attached to said bonds shall be in substantially the following form:

No. _____ \$15.00

On the first day of _____, 19____, the City of Kirkland, Washington, will pay to bearer at the office of the City Treasurer in Kirkland the sum of FIFTEEN AND NO/100 DOLLARS in lawful money of the United States of America out of the special fund of the city known as "Kirkland, 1952 Water and Sewer Revenue Bond Redemption Fund", said sum being the semi-annual interest due that day on its water and sewer revenue bond dated September 1, 1952, and numbered _____.

CITY OF KIRKLAND, WASHINGTON

By _____
Mayor

ATTEST:

City Clerk

Section 3. Said bonds shall be signed on behalf of the city by its Mayor and attested by the City Clerk under the corporate seal of the city, and the interest coupons attached to said bonds shall be signed with the facsimile signatures of said officials.

Section 4. That there be and is hereby created a special fund of the city to be known as "Kirkland, 1952 Water and Sewer Revenue Bond Redemption Fund", which fund is to be drawn upon

for the sole purpose of paying the principal and interest of the water and sewer revenue bonds authorized herein as the same shall become due and payable. The city hereby obligates and binds itself to set aside and pay into said bond redemption fund out of the gross revenue of its combined water and sewerage system and all additions and improvements thereto, certain fixed amounts necessary to pay the principal and interest on all the outstanding bonds of the issue authorized herein as the same respectively become due and payable.

Said payments shall be made into said bond redemption fund on or before the 20th day of each month in the amounts hereinafter specified:

(a) Beginning with the month of September, 1953, and continuing as long as any of the bonds authorized herein are outstanding and unpaid, an amount equal to at least one-sixth of the interest to become due and payable at the end of the next ensuing six months period on all the bonds then outstanding.

(b) Beginning with the month of September, 1953, and continuing as long as any of the bonds authorized herein are outstanding and unpaid, an amount equal to at least one-twelfth of the principal of said bonds to become due and payable on the next principal payment date.

When there is sufficient money in said bond redemption fund and the reserve account hereinafter created to pay the principal and interest to maturity of all the outstanding bonds of the issue authorized herein, then no further payments need be made into said bond redemption fund.

Said amounts so pledged and the amounts required herein to be paid into the reserve account hereinafter created are hereby declared to be a prior lien and charge upon the gross

revenue of said combined water and sewerage system and all additions and improvements thereto superior to all other charges of any kind or nature except the necessary cost of maintenance and operation of said system and except the charges necessary to pay the principal and interest of the previously issued and outstanding water and sewer revenue bonds of the city.

Section 5. A reserve account is hereby created in said bond redemption fund and the city hereby agrees that it will set aside and pay into said reserve account the sum of \$100 a month commencing with the month of January, 1954, until the total sum of \$5,000 has been paid into said reserve account.

The city further agrees that when said sum of \$5,000 has been paid into said reserve account, it will at all times maintain that amount therein until there is a sufficient amount in the bond redemption fund and reserve account to pay the principal and interest to maturity of all the outstanding bonds of the issue authorized herein.

In the event there shall be a deficiency in said bond redemption fund to meet maturing installments of either principal or interest of the bonds authorized herein, such deficiency shall be made up from the reserve account by the withdrawal of cash therefrom. Any deficiency created in the reserve account by reason of any such withdrawal shall then be made up from the gross revenue of said combined water and sewerage system and all additions and improvements thereto first available after making necessary provision for the required payments into the bond redemption fund.

All money in said reserve account may be kept in cash or invested in direct obligations of the United States Government

maturing not later than twelve years from date of purchase and in no event later than the last maturity of the outstanding bonds of the issue authorized herein. Interest earned on any such investments shall be deposited in and become a part of the bond redemption fund.

Section 6. The corporate authorities of the City of Kirkland hereby declare, in fixing the amounts to be paid into said bond redemption fund and reserve account, that they have exercised due regard to the cost of maintenance and operation of said combined water and sewerage system and the charges necessary to pay the principal and interest of the previously issued and outstanding water and sewer revenue bonds of the city and have not obligated the city to set aside and pay into said fund and account a greater amount or proportion of the revenue of said combined system than in their judgment will be available over and above such cost of maintenance and operation and the charges necessary to pay the principal and interest of said previously issued and outstanding water and sewer revenue bonds.

Section 7. The City of Kirkland hereby covenants with the owner and holder of each of the bonds authorized herein as follows:

(a) That it will establish, maintain and collect rates and charges for water and sewage disposal service for as long as any of the previously issued water and sewer revenue bonds of the city, the bonds authorized herein, and any water and sewer revenue bonds that may be issued on a parity with the bonds authorized herein are outstanding that will make available for the payment of the principal and interest of all of such bonds as the same shall become due an amount equal to at least 1.4 times

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the average annual amount required to pay all of such principal and interest. The amount "available for the payment of the principal and interest of all of such bonds as the same shall become due" is hereby defined as the "gross revenue of the combined water and sewerage system and all additions and improvements thereto less expenses of maintenance and operation but before depreciation."

(b) That it will at all times keep and maintain said combined water and sewerage system and all additions and improvements thereto in good repair, working order and condition, and also will at all times operate the same and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) That it will not sell or otherwise dispose of the properties of such combined water and sewerage system unless provision is made for payment into said bond redemption fund of a sum sufficient to pay the principal and interest of all the outstanding bonds authorized herein in accordance with the terms thereof; nor will it sell or otherwise dispose of any part of the properties of said combined system except those that are no longer used, useful or material to the operation thereof; nor will it sell or otherwise dispose of any part of the properties of such combined system that are used, useful or material to such operation unless provision is made for payment into said bond redemption fund of an amount which shall be in at least the same proportion to the amount of outstanding bonds of the issue authorized herein that the revenue available for debt service of said bonds for the twelve months preceding such sale or

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disposal from the portion of the system sold or disposed of bears to the revenue available for debt service for said bonds from the entire combined system for the same period. Any such money so paid into said bond redemption fund shall be used to retire said outstanding bonds at the earliest possible date.

(d) That it will not create any special fund or funds for the payment of any other water and sewer revenue bonds which will rank on a parity with or have any priority over the payments out of the gross revenue of said combined system into the bond redemption fund and the reserve account created therein in this ordinance, except that it hereby reserves the right for the purpose of

(1) Redeeming or purchasing and retiring prior to their maturity any outstanding water and sewer revenue bonds of the city, or

(2) Acquiring, constructing and installing additions and improvements to and extensions of or making necessary replacements or other capital improvements to said combined system

to issue refunding or additional revenue bonds for such purposes and to create a special fund or funds for the payment thereof into which fund or funds payments may be made out of the gross revenue of said combined system sufficient to pay the principal of and interest on such refunding or additional bonds and to maintain an adequate reserve therefor if the same is required, which such payments may rank equally with the payments to be made out of such gross revenue into the bond redemption fund and the reserve

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in this ordinance
account created therein/upon compliance with the following
conditions:

(1) That at the time of the issuance of such re-funding or additional revenue bonds there is no deficiency in the bond redemption fund and the reserve account created herein or in any bond redemption fund and reserve account which may have been created for the payment of the principal and interest of any parity revenue bonds issued subsequent to the issuance of the bonds authorized herein and prior to the issuance of such refunding or additional revenue bonds;

(2) That at the time of the delivery of such refunding or additional revenue bonds the city shall have on file a certificate from an independent licensed professional engineer or engineering firm showing that in his or its opinion he or it is reasonably certain that the income of the combined water and sewerage system as added to, improved, extended, after expenses of maintenance and operation of said combined system, will equal at least 1.4 times the average annual amount required to be paid for interest and principal due and payable on the heretofore issued and outstanding water and sewer revenue bonds of the city, on the bonds authorized herein, on any revenue bonds which may later be issued on a parity therewith, and upon such refunding or additional revenue bonds.

(e) Nothing herein contained shall prevent the city from issuing water and sewer revenue bonds or warrants which are a charge upon the gross revenue of said combined water and sewerage system junior or inferior to the payments required to be made into the bond redemption fund and the reserve account therein created

in this ordinance or from issuing water and sewer revenue bonds to refund maturing water and sewer revenue bonds for the payment of which moneys are not otherwise available.

Section 8. In the event that additional revenue bonds are issued by the city for the purposes specified in Ordinance No. 627 and out of the remaining \$90,000 of such bonds authorized by said ordinance the city covenants and agrees in the ordinance providing for the issuance of such additional bonds that it will create a reserve account for such additional bonds and provide for the payment therein within five years from the date of such bonds of a sum equal to the average amount required each year to pay the principal and interest of such additional bonds.

Section 9. The moneys derived from sale of the bonds authorized herein shall be used solely for the purposes provided in Ordinance No. 627 and this ordinance. The city officials are hereby authorized and directed to do everything necessary for the acquisition, construction and installation of the additions and improvements to the combined water and sewerage system of the city, for the issuance, execution and delivery of the bonds authorized herein to the hereinafter named purchasers thereof and for the proper use and application of the funds derived from such sale.

Section 10. The acts of the City Council and officials on July 7th, 1952, in accepting the written offer of Grande & Co., Inc. and H. P. Pratt & Company to purchase these bonds under the terms of said offer and as provided herein, are hereby in all respects ratified and confirmed.

Section 11. This ordinance shall become effective five days after its passage, approval and publication as provided by law.

PASSED by the Council of the City of Kirkland, Washington, and approved by its Mayor this 2nd day of September, 1952.

CITY OF KIRKLAND, WASHINGTON

By Alfred E. Leland
Mayor

ATTEST:

Loren L. Titch
City Clerk

I hereby certify that the foregoing is a true and correct copy of an Ordinance of the City of Kirkland and that the same was published or posted according to law, said Ordinance being No. 630 and entitled "An Ordinance as above."

Loren L. Titch, City Clerk.

