

CITY OF KIRKLAND, WASHINGTON

ORDINANCE NO. 797

AN ORDINANCE of the City of Kirkland, Washington, providing for the issuance of \$300,000.00 par value of "Water and Sewer Revenue Bonds, 1960," of the City, for the purpose of providing the funds with which to carry out the system or plan of additions to and betterments and extensions of the waterworks utility of the City, including the sewerage system as a part thereof, as adopted by Ordinance No. 792; fixing the date, form, maturities, maximum interest rate, terms and covenants of said bonds; and providing for the calling of bids for the sale thereof.

WHEREAS, the City of Kirkland, Washington, by Ordinance No. 792, passed by the City Council and approved by the Mayor on the 18th day of January, 1960, specified and adopted a system or plan of additions to and betterments and extensions of the waterworks utility of the City, and authorized the issuance and sale of "Water and Sewer Revenue Bonds, 1960," in the principal sum of not to exceed \$300,000.00 to pay the cost thereof, said "waterworks utility of the City" being deemed to include the systems of water supply and distribution and sanitary sewage disposal, as combined pursuant to RCW 35.67.320, by Ordinance No. 576 of the City, passed and approved July 18, 1949; and

WHEREAS, pursuant to the provisions of Ordinance No. 630, passed September 2, 1952, the City heretofore issued its "Water and Sewer Revenue Bonds, 1952," dated September 1, 1952, and thereafter issued, on a parity of lien with said "Water and Sewer Revenue Bonds, 1952," pursuant to the provisions of Section 7 of said Ordinance No. 630, its "Water and Sewer Revenue Bonds, 1953," dated May 1, 1953, and its "Water and Sewer Revenue Bonds, 1955," dated July 1, 1955, the charge or lien upon the gross

revenues of the waterworks utility of the City for said bonds being junior and inferior to the prior charge or lien upon such gross revenues for the outstanding "Water and Sewer Revenue Bonds, Series A," dated September 1, 1949, and the outstanding "Water and Sewer Revenue Bonds, Series B," dated July 1, 1950; and

WHEREAS, by Section 7 of said Ordinance No. 630, the City reserved 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 account created therein in this ordinance upon compliance with the following conditions:

"(1) That at the time of the issuance of such refunding 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.";

and

WHEREAS, the City Council hereby finds and declares that there is no deficiency in the bond redemption fund and the reserve account created for the payment of said "Water and Sewer Revenue Bonds, 1952," or in the bond redemption funds and reserve accounts created for the payment of the outstanding "Water and Sewer Revenue Bonds, 1953," dated May 1, 1953, and the outstanding "Water and Sewer Revenue Bonds, 1955," dated July 1, 1955, subsequently issued on a parity with said outstanding "Water and

Sewer Revenue Bonds, 1952," and that R. W. Beck and Associates, Consulting Engineers, have certified that said revenues are sufficient to meet the 1.4 coverage requirement above set forth, as evidenced by their certificate to such effect on file with the City Clerk, NOW, THEREFORE,

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

Section 1. For the purpose of obtaining the funds with which to carry out the system or plan of additions to and betterments and extensions of the waterworks utility of the City, as adopted and ordered to be carried out by Ordinance No. 792, there shall be issued and sold the entire authorized issue of \$300,000.00 par value of "Water and Sewer Revenue Bonds, 1960" (hereinafter called the "Bonds"). The Bonds shall be dated April 1, 1960, shall bear interest at a rate or rates not to exceed 6% per annum, interest to be paid semiannually on April 1st and October 1st of each year, interest to maturity to be evidenced by coupons to be attached to the Bonds with full obligation on the part of the City to pay interest at the same rate or rates from and after the bond maturity dates until the Bonds with interest are paid in full. Both the principal of and interest on the Bonds will be payable solely out of the "Kirkland Water and Sewer Revenue Bond Fund, 1960" (hereinafter called the "Bond Fund"), created and established by Ordinance No. 792. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America at the office of the Treasurer of Kirkland, Washington.

The Bonds shall mature serially in accordance with the following schedule:

<u>Bond Numbers</u>	<u>Amounts</u>	<u>Maturities</u>
1 to 5, incl.	\$ 5,000-	April 1, 1961
6 to 10, "	\$ 5,000-	April 1, 1962
11 to 15, "	\$ 5,000	April 1, 1963 5%
16 to 20, "	\$ 5,000	April 1, 1964
21 to 25, "	\$ 5,000	April 1, 1965
26 to 30, "	\$ 5,000	April 1, 1966
31 to 35, "	\$ 5,000	April 1, 1967
36 to 40, "	\$ 5,000	April 1, 1968
41 to 45, "	\$ 5,000	April 1, 1969 4 3/4
46 to 50, "	\$ 5,000	April 1, 1970
51 to 60, "	\$10,000	April 1, 1971
61 to 70, "	\$10,000	April 1, 1972
71 to 80, "	\$10,000	April 1, 1973
81 to 90, "	\$10,000	April 1, 1974
91 to 100, "	\$10,000	April 1, 1975
101 to 110, "	\$10,000	April 1, 1976 4 1/2
111 to 120, "	\$10,000	April 1, 1977
121 to 140, "	\$20,000	April 1, 1978
141 to 160, "	\$20,000	April 1, 1979
161 to 180, "	\$20,000	April 1, 1980
181 to 240, "	\$60,000	April 1, 1981
241 to 300, "	\$60,000	April 1, 1982 3 1/2

Section 2. Bonds numbered 1 to 50, inclusive, of a total par value of \$50,000.00, maturing April 1, 1961, to and including April 1, 1970, shall be issued without right or option of the City to call the same for redemption prior to their stated maturities.

The City reserves the right to redeem Bonds numbered 51 to 300, inclusive, of a total par value of \$250,000.00, maturing April 1, 1971, to and including April 1, 1982, as a whole, or in part in inverse order of maturities, highest numbers first, on April 1, 1970, or on any subsequent interest payment date at the following redemption prices if redeemed on the following dates, plus accrued interest to date of redemption in each case:

April 1 or October 1, 1970, at \$104.60 per each \$100 par value
 April 1 or October 1, 1971, at \$103.00 per each \$100 par value
 April 1 or October 1, 1972, at \$102.50 per each \$100 par value
 April 1 or October 1, 1973, at \$101.00 per each \$100 par value
 April 1 or October 1, 1974, at \$100.00 per each \$100 par value
~~April 1, 1975, and thereafter, at par.~~

Notice of any call for redemption of any of the Bonds prior to their stated maturity dates shall be published at least

once in the official newspaper of the City not less than thirty nor more than forty-five days prior to the call date. Notice of said intended redemption shall also be mailed to the principal underwriter who purchases the Bonds not less than thirty nor more than forty-five days prior to the call date. Interest on any Bonds so called for redemption shall cease on the date fixed for such redemption upon payment of the redemption price into the Bond Fund.

Section 3. The Bond Fund is hereby divided into two accounts, namely, a "Principal and Interest Account" and a "Reserve Account." So long as any Bonds are outstanding against the Bond Fund, the City Treasurer of the City of Kirkland shall set aside and pay into the Bond Fund out of the gross revenues of the waterworks utility of the City, including all additions, extensions and betterments thereof at any time made, a fixed amount without regard to any fixed proportion on or before the 20th day of each month, namely:

(a) Into the "Principal and Interest Account," beginning with the month of May, 1960, one-twelfth of the next ensuing twelve months' requirements for both principal and interest on the Bonds; and

(b) Into the "Reserve Account," beginning with the month of May, 1960, one-sixtieth of an amount equal to one year's average annual debt service requirements for the Bonds, which total reserve equal to one year's average annual debt service requirements for the Bonds shall be accumulated by no later than April 1, 1965.

The "Reserve Account" may be accumulated from any other moneys which the City of Kirkland may have available for such purpose in addition to using such revenues therefor. The "Reserve Account" shall be maintained in such total required reserve amount, except for withdrawals therefrom as authorized herein, at all times so long as any of the Bonds are outstanding, PROVIDED, that when the total amount in the Bond Fund shall equal the total

amount of principal and interest for all outstanding Bonds to the last maturity thereof, no further payment need be made into the Bond Fund.

In the event that there should be a deficiency in the "Principal and Interest Account" in the Bond Fund to meet maturing installments of either principal or interest, as the case may be, such deficiency shall be made up from the "Reserve Account" by the withdrawal of cash therefrom for that purpose. Any deficiency created in the "Reserve Account" by reason of any such withdrawal shall then be made up from the moneys from the revenues of the waterworks utility of the City first available after making necessary provision for the required payments into the "Principal and Interest Account." The money in the "Reserve Account" shall otherwise be held intact and may be applied against the last outstanding Bonds.

All money in the "Reserve Account" above provided for may be kept on deposit in the official bank depository of the City of Kirkland, or may be invested in United States Government obligations redeemable at a fixed price and maturing not later than March 1, 1982. Interest earned on any such investment or on such bank deposit shall be deposited in and become a part of the "Reserve Account" until the total required reserve amount shall have been accumulated therein, after which such interest shall be deposited in the "Principal and Interest Account."

Section 4. The City hereby covenants and agrees with the owner and holder of each Bond at any time outstanding, as follows:

(a) That it will establish, maintain and collect such rates and charges for water and sanitary sewage disposal service so long as any Bonds are outstanding as will make available for the payment of the principal of and interest on such Bonds an amount equivalent

to at least 1.4 times the average annual debt service requirements, both principal and interest, of the Bonds and said outstanding "Water and Sewer Revenue Bonds, Series A," "Water and Sewer Revenue Bonds, Series B," "Water and Sewer Revenue Bonds, 1952," "Water and Sewer Revenue Bonds, 1953," and "Water and Sewer Revenue Bonds, 1955," after deducting costs of maintenance and operation from the gross revenues of the waterworks utility of the City.

(b) That it will at all times maintain and keep the waterworks utility of the City and all additions thereto and betterments, replacements and extensions thereof in good repair, working order and condition, and also will at all times operate such utility and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) That it will not sell, lease, mortgage or in any manner encumber or dispose of all the property of the waterworks utility of the City unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal of and interest on all Bonds at any time outstanding, and that it will not sell, lease, mortgage, or in any manner encumber or dispose of any part of the property of said waterworks utility of the City that is used, useful and material to the operation thereof, unless provision is made for replacement thereof, or for payment into the Bond Fund of the total amount of revenue received which shall not be less than an amount which shall bear the same ratio to the amount of outstanding Bonds as the revenue available for debt service for such outstanding Bonds for the twelve months preceding such sale, lease, encumbrance or disposal from the portion of the utility sold, leased, encumbered or disposed of bears to the revenue available for debt service for such Bonds from the entire utility for the same period. Any such moneys so paid into the Bond Fund shall be used to retire such outstanding Bonds at the earliest possible date.

(d) That it will while any of the Bonds remain outstanding keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to its waterworks utility, and it will furnish the original purchaser or purchasers of the Bonds or any subsequent holder or holders thereof, at the written request of such holder or holders, complete operating and income statement of said utility in reasonable detail covering any calendar year not more than ninety

days after the close of such calendar year and it will grant any holder or holders of at least twenty-five per cent of the outstanding Bonds the right at all reasonable times to inspect the entire waterworks utility of the City and all records, accounts and data of the City relating thereto. Upon request of any holder of any of said Bonds, it will also furnish to such holder a copy of the most recently completed audit of the City's accounts by the State Auditor of Washington.

(e) That it will not furnish water or sanitary sewage disposal service to any customer whatsoever free of charge and will promptly take legal action to enforce collection of all delinquent accounts.

(f) That it will carry the types of insurance on its waterworks utility properties in the amounts normally carried by private water and sewer companies engaged in the operation of water and sewerage systems, and the cost of such insurance shall be considered a part of operating and maintaining said utility. If, as, and when, the United States of America or some agency thereof shall provide for War Risk Insurance, the City further agrees to take out and maintain such insurance on all or such portions of said system on which such War Risk Insurance may be written in an amount or amounts to cover adequately the value thereof.

(g) That it will pay all costs of maintenance and operation of the waterworks utility of the City and the debt service requirements for the outstanding "Water and Sewer Revenue Bonds, Series A," "Water and Sewer Revenue Bonds, Series B," "Water and Sewer Revenue Bonds, 1952," "Water and Sewer Revenue Bonds, 1953," and "Water and Sewer Revenue Bonds, 1955," and otherwise meet the obligations of the City as herein set forth.

Section 5. The Bonds shall be in substantially the following form:

No. _____ \$1,000.00

UNITED STATES OF AMERICA

STATE OF WASHINGTON

CITY OF KIRKLAND

WATER AND SEWER REVENUE BOND, 1960

_____%

KNOW ALL MEN BY THESE PRESENTS: That the City of Kirkland, State of Washington, for value received, promises to pay to bearer on the 1ST DAY OF APRIL, 19___, the principal sum of

ONE THOUSAND DOLLARS

together with interest thereon at the rate of _____ PER CENT (___%) per annum, payable semiannually on the 1st days of April and October of each year, upon presentation and surrender of the attached interest coupons as they severally mature up to the bond maturity date and with full obligation on the part of the City to pay interest at the same rate from and after the bond maturity date until this bond with interest is paid in full, or funds are available in the "Kirkland Water and Sewer Revenue Bond Fund, 1960" (hereinafter called the "Bond Fund"), for payment in full. Both principal of and interest on this bond are payable in lawful money of the United States of America at the office of the Treasurer of the City of Kirkland, Washington, solely out of the special fund created by Ordinance No. 792 and referred to herein as the "Bond Fund," into which fund the City of Kirkland hereby irrevocably binds itself to pay certain fixed amounts out of the gross revenues of the waterworks utility, including the sewerage system as a part thereof, now belonging to or which may hereafter belong to the City, including all additions, extensions and betterments thereof now or at any time made or constructed, without regard to any fixed proportion, namely, an amount sufficient to pay the principal of and interest on this issue of bonds as they respectively become due and to accumulate a reserve, all at the times and in the manner set forth in Ordinance No. _____.

The gross revenues from the combined water and sewerage systems, comprising the waterworks utility of the City, are hereby pledged to such payment, and the bonds of this issue constitute a lien and charge upon such revenues prior and superior to any other charges whatsoever, excluding charges for maintenance and operation, except that the lien and charge upon said revenues for this issue of bonds shall be on a parity with the charge or lien upon such gross revenues for the outstanding "Water and Sewer Revenue Bonds, 1952," dated September 1, 1952, the outstanding "Water and Sewer Revenue Bonds, 1953," dated May 1, 1953, and the outstanding "Water and Sewer Revenue Bonds, 1955," dated July 1, 1955, and any additional water and sewer

revenue bonds which may be hereafter issued on a parity with said bonds, in accordance with the provisions of Section 7 of Ordinance No. 630, and except further that the lien and charge upon such gross revenues for the bonds of this issue shall be junior and inferior to the prior charge or lien upon such gross revenues for the outstanding "Water and Sewer Revenue Bonds, Series A," dated September 1, 1949, and the outstanding "Water and Sewer Revenue Bonds, Series B," dated July 1, 1950.

This bond is one of a total issue of \$300,000.00 par value of bonds, all of like date, tenor and effect, except as to maturities, options of redemption (and interest rates, if more than one interest is bid), all payable from the Bond Fund and all issued by the City under and in pursuance of the laws of the State of Washington and Ordinances Nos. 792 and _____ of the City, for the purpose of providing funds to pay the cost of making certain additions to and betterments and extensions of the waterworks utility of the City.

Bonds numbered 1 to 50, inclusive, of a total par value of \$50,000.00, maturing April 1, 1961, to and including April 1, 1970, are issued without the right or option of the City to redeem the same prior to their stated maturity dates.

The City of Kirkland reserves the right to redeem any or all of the outstanding bonds of this issue numbered 51 to 300, inclusive, of a total par value of \$250,000.00, maturing April 1, 1971, to and including April 1, 1982, as a whole, or in part in inverse order of maturities, highest numbers first, on April 1, 1970, or on any subsequent interest payment date at the following redemption prices if redeemed on the following dates, plus accrued interest to date of redemption in each case:

April 1 or October 1, 1970, at \$104.50 per each \$100 par value
April 1 or October 1, 1971, at \$103.00 per each \$100 par value
April 1 or October 1, 1972, at \$102.50 per each \$100 par value
April 1 or October 1, 1973, at \$101.00 per each \$100 par value
April 1 or October 1, 1974, at \$100.50 per each \$100 par value
~~April 1, 1975, and thereafter, at par.~~

Notice of such call for redemption shall be published once in the official newspaper of the City not less than thirty nor more than forty-five days prior to the call date. Notice of said intended redemption shall also be mailed to (the principal underwriter), or its successor, within the same period. Interest on any bonds of this issue so called for

The City of Kirkland hereby covenants and agrees with the holders of each and every one of the bonds of this issue to fully carry out all covenants and meet all obligations of the City, as set forth in Ordinances Nos. 792 and _____, to which ordinances reference is hereby made as more fully describing the covenants with and rights of holders of bonds of this issue.

It is hereby certified and declared that the bonds of this issue are issued pursuant to and in strict compliance with the Constitution and laws of the State of Washington and the 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, have been done and have been performed as required by law.

IN WITNESS WHEREOF, the City of Kirkland, Washington, has caused this bond to be signed by its Mayor and attested by its Clerk and its corporate seal to be hereto affixed and the interest coupons attached to be signed with the facsimile signatures of said officials this 1st day of April, 1960.

BY John D. Fitzgerald
MAYOR

ATTEST:

CITY CLERK

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

On the 1st day of (April)(October), 19____, the CITY OF KIRKLAND, WASHINGTON, upon presentation and surrender of this coupon, will pay to bearer at the office of the City Treasurer the sum of _____ DOLLARS (\$_____) in lawful money of the United States of America from the special fund of said City, known as the "Kirkland Water and Sewer Revenue Bond Fund, 1960," said sum being six months' interest then due on its "Water and Sewer Revenue Bond, 1960," dated April 1, 1960, and numbered _____.

Coupon No. _____
\$ _____

ATTEST:

CITY OF KIRKLAND, WASHINGTON
BY

CITY CLERK

MAYOR

The Bonds shall be printed on lithographed forms, shall be signed by the Mayor and attested by the Clerk and shall have the seal of the City of Kirkland affixed thereto and the interest coupons shall bear the facsimile signatures of the Mayor and the Clerk.

Section 6. The Clerk of the City of Kirkland is hereby directed to publish in the official newspaper of the City and in The Daily Journal of Commerce of Seattle a Notice of Bond Sale of the Bonds calling for bids for the purchase thereof at the City Hall, Kirkland, Washington, said notice to be published once in each newspaper not later than March 24, 1960.

Bidders are invited to submit a bid specifying the lowest rate or rates of interest at which said bidders will purchase the Bonds at a price of not less than 97% of par. The Bonds shall not bear a rate or rates of interest in excess of 6% per annum. The same interest rate must be used for all Bonds maturing on the same date. Each bid shall show the total amount of interest to be paid over the life of the Bonds from the date of issue less the premium, if any, or plus the discount, if any, and the effective rate of interest over the life of the Bonds. The bid resulting in the lowest net interest cost to the City shall be considered the best bid.

Each bidder shall seal his bid in an envelope with a good-faith deposit in the form of a certified or cashier's check, payable to the City Treasurer, Kirkland, Washington, in a sum of at least 5% of the amount of his bid. The checks of the unsuccessful bidders will be returned immediately after the Bonds are awarded. The check of the successful bidder will be retained for forfeit to the City in the event said successful bidder shall fail or refuse to accept the Bonds within a reasonable period of time.

The City reserves the right to reject any or all bids submitted and waive any informality in the bidding and if all bids be rejected, the Bonds may be readvertised for sale by the City in the manner herein provided or the City may proceed to sell the Bonds at private sale.

The Bonds shall be furnished by the City and shall be sold with the opinion of Weter, Roberts & Shefelman, bond counsel of Seattle, Washington, approving the legality of the same, all at the expense of the City.

The Bonds will be delivered to the successful purchaser in Kirkland, Washington, Seattle, Washington, or such other place as the purchaser and the City shall mutually agree upon.

The bids shall be received by the Clerk of the City of Kirkland at the City Hall, Kirkland, Washington, until 8:00 o'clock p.m., on the evening of April 4, 1960, at which time all bids will be publicly opened by said Clerk and considered at the meeting of the City Council then to be held in the City Hall.

Introduced the 7th day of March, 1960.

PASSED BY THE CITY COUNCIL at a regular meeting thereof, and APPROVED by the Mayor of Kirkland, Washington, this 21st day of March, 1960.

ATTEST:

Ree A. Crompton
CITY CLERK

APPROVED AS TO FORM:

Charles W. Johnson Jr.
CITY ATTORNEY

[Signature]
MAYOR

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. 797 and entitled "An Ordinance as above."
Ree A. Crompton City Clerk