

CITY OF KIRKLAND, WASHINGTON

ORDINANCE NO. 3321

AN ORDINANCE of the City of Kirkland, Washington, relating to the combined water supply and distribution system and system of sewerage of the City; specifying, adopting and ordering the carrying out of a system or plan of additions to and betterments and extensions of that system; estimating the cost thereof and providing the method of financing; providing for the issuance of \$5,890,000 par value Water and Sewer Revenue and Refunding Bonds, 1992, of the City for the purpose of paying part of the cost of carrying out such system or plan, paying the cost of advance refunding a portion of the outstanding Water and Sewer Revenue Bonds, 1987, and Water and Sewer Revenue Bonds, 1990, of the City and providing for and authorizing the purchase of certain obligations out of a portion of the proceeds of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with Seattle-First National Bank, as refunding trustee; fixing the date, form, terms, interest rates, maturities and covenants of those bonds; establishing a construction fund; and providing for the sale and delivery of the bonds to Piper Jaffray Inc. of Seattle, Washington.

WHEREAS, the City of Kirkland, Washington (the "City"), by Ordinance No. 576 heretofore combined its municipal water system and system of sewerage, including all additions thereto and betterments and extensions thereof at any time made, pursuant to RCW 35.67.320, and such combined systems, including the separate waterworks system and separate system of sewerage of the former City of Houghton, Washington, which has now been consolidated with the City, if the same hereafter shall be combined with and made a part of the waterworks utility of the City, shall hereinafter be referred to as the Waterworks Utility; and

WHEREAS, pursuant to Ordinance No. 2869, the City heretofore issued its \$1,235,000 par value Water and Sewer Revenue Refunding Bonds, 1985 (the "1985 Bonds"), for the purpose of obtaining part of the funds with which to accomplish the refunding, payment and retirement of the outstanding Water and Sewer Revenue Refunding Bonds, 1978, of the City all of which remaining outstanding 1985 Bonds mature on June 1, 1992, and, by Section 12 of that ordinance, reserved the right to issue additional water and sewer revenue bonds which would constitute a charge and lien upon the revenue of the Waterworks Utility of the City on a parity with the 1985 Bonds upon compliance with the following conditions at the time of the issuance of such additional Bonds:

"(a) At the time of issuance of such Parity Bonds, there shall not be a deficiency in either the Principal and Interest Account or the Reserve Account;

"(b) The ordinance providing for the issuance of such Parity Bonds shall provide that all assessments and interest thereon which may be levied in any ULID created for the purpose of paying in whole or in part the principal of and interest on such Parity Bonds shall be paid directly into the Bond Fund;

"(c) Each ordinance providing for the issuance of such Parity Bonds shall provide for the payment of the principal thereof and interest thereon out of the Bond Fund.

"(d) The ordinance authorizing any Parity Bonds shall require that the Reserve Account be increased within a period of five years after the date of issuance of the Parity Bonds to an amount equal to the Average Annual Debt Service on all bonds payable from the Bond Fund, including the Parity Bonds proposed to be issued.

"(e) At the time of the issuance of such Parity Bonds, the City shall have on file a certificate from an independent licensed professional engineer experienced in the design, construction and operation of municipal utilities, showing that in his/her/its professional opinion, the annual Revenue of the Waterworks Utility available for debt service on the Bonds, Parity Bonds then outstanding and the Parity Bonds proposed to be issued for each year, shall be at least equal to the Coverage Requirement.

"In determining whether the City is able to comply with the terms of the parity conditions, the following adjustments may be made to the historical Revenue of the Waterworks Utility for any twelve consecutive months out of the immediately preceding 24-month period:

"(i) Any rate change that has taken place or been adopted may be reflected;

"(ii) Revenue may be added from customers actually added to the Waterworks Utility subsequent to the twelve-month period;

"(iii) Revenue may be added from customers to be served by the improvements being constructed out of the proceeds of the Parity Bonds to be issued; and

"(iv) Revenue may be added from customers reasonably anticipated to be added to the Waterworks Utility where service is available, if the annual income thus determined shall only be increased annually for three calendar years following the issuance of the Parity Bonds, and if the aggregate of such estimate of additional customers does not exceed the actual aggregate of new customers during the three calendar years immediately preceding the issuance of such Parity Bonds";

and

WHEREAS, pursuant to Ordinance No. 3026, the City heretofore issued its \$1,500,000 par value Water and Sewer Revenue Bonds, 1987 (the "1987 Bonds"), for the purpose of paying the cost of carrying out the plan of additions to and betterments and extensions of the Waterworks Utility specified and adopted by Ordinance No. 3026, which 1987 Bonds were issued on a parity of lien with the 1985 Bonds, and by that ordinance reserved the right to call, pay and redeem on June 1, 1997, or on any interest payment date thereafter, the 1987 Bonds maturing on or after June 1, 1998, at par plus accrued interest; and

WHEREAS, pursuant to Ordinance No. 3224, the City heretofore issued its \$2,300,000 par value Water and Sewer Revenue Bonds, 1990 (the "1990 Bonds"), for the purpose of paying the costs of carrying out the plan of additions to and betterments and extensions of the Waterworks Utility specified and adopted by Ordinance No. 3224, which 1990 Bonds were issued on a parity of lien with the 1985 Bonds and the 1987 Bonds and by that ordinance reserved the right to call, pay and redeem on July 1, 2000, or on any interest payment date thereafter the 1990 Bonds maturing on or after July 1, 2001, at par plus accrued interest; and

WHEREAS, there are presently outstanding \$895,000 principal amount of the 1987 Bonds maturing on June 1 of each of the years 1998 through 2002 bearing interest at various rates from 6.90% to 7.40% (the "1987 Refunded Bonds"); and

WHEREAS, there are presently outstanding \$1,475,000 principal amount of the 1990 Bonds maturing on July 1 of each of the years 2001 through 2006 and 2010 (the "1990 Refunded Bonds"); and

WHEREAS, the City Council has determined that the outstanding 1987 Refunded Bonds and the 1990 Refunded Bonds (collectively, the "Refunded Bonds") may be refunded by the issuance and sale of the water and sewer revenue bonds authorized herein so that a substantial saving will be effected by the difference between the principal and interest costs over the life of the portion of the Bonds allocated to the refunding and the principal and interest costs over the life of the outstanding Refunded Bonds but for such refunding, which refunding will be effected by:

- (a) the issuance of the Bonds;
- (b) the payment of the interest on the 1987 Refunded Bonds when due up to and including June 1, 1997, and, on June 1, 1997, the call, payment and redemption of all the outstanding 1987 Refunded Bonds at par; and
- (c) the payment of the interest on the 1990 Refunded Bonds when due up to and including June 1, 2000, and on June 1, 2000, the call, payment and redemption of all of the outstanding Refunded Bonds at par;

and

WHEREAS, in order to effect that refunding in the manner that will be most advantageous to the City and its ratepayers, the City Council finds it necessary and advisable that certain acquired obligations (hereinafter defined) bearing interest and maturing at the time or times necessary to accomplish the

refunding as aforesaid be purchased out of a portion of the proceeds of the sale of the bonds authorized herein; and

WHEREAS, the City Council has determined that it is necessary and in the best interest of the City and its inhabitants that certain improvements be made to the Waterworks Utility and that a system or plan of additions to and betterments and extensions of the Waterworks Utility be adopted; and

WHEREAS, the City Council has determined that it is necessary to issue and sell \$5,890,000 par value of water and sewer revenue bonds to provide the funds necessary to carry out the system or plan of additions to and betterments and extensions of the Waterworks Utility adopted herein, to advance refund the 1987 Refunded Bonds and the 1990 Refunded Bonds and to pay the cost of issuance and sale of those bonds; and

WHEREAS, Piper Jaffray Inc. has offered to purchase those bonds under the terms and conditions hereinafter set forth; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF KIRKLAND, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance the following words shall have the following meanings:

"Acquired Obligations" means United States Treasury Certificates and Notes--State and Local Government Series or other direct non-callable obligations of the United States government.

"Annual Debt Service" means, in any year, that year's total of principal and interest requirements for the then outstanding bonds (except the principal maturity of Term Bonds) to which the term Annual Debt Service refers, plus any mandatory sinking fund or mandatory bond redemption requirement for that year, less all capitalized interest payable that year from such bonds.

"Average Annual Debt Service" means, in any year, the sum of the remaining Annual Debt Service of the then outstanding bonds to which the term Average Annual Debt Service refers divided by the number of years such bonds are scheduled to remain outstanding.

"Bond Fund" means the Water and Sewer Revenue Refunding Bond Fund, 1985, created by Ordinance No. 2869 for the purpose of paying and securing the principal of and interest on the Outstanding Parity Bonds, the Bonds and any Parity Bonds.

"Bonds" means the \$5,890,000 par value of Water and Sewer Revenue and Refunding Bonds, 1992, authorized to be issued by this ordinance.

"1985 Bonds" means the outstanding Water and Sewer Revenue Refunding Bonds, 1985, of the City issued under date of May 15, 1985, pursuant to Ordinance No. 2869, all of the remaining of which bonds will mature on June 1, 1992.

"1987 Bonds" means the outstanding Water and Sewer Revenue Bonds, 1987, of the City maturing up to and including

June 1, 1997, issued under date of July 1, 1987, pursuant to Ordinance No. 3026.

"1987 Refunded Bonds" means the 1987 Bonds maturing on or after June 1, 1998, irrevocable provision for the payment and redemption of which is made herein.

"1990 Bonds" means the outstanding Water and Sewer Revenue Bonds, 1990, of the City, maturing up to and including July 1, 2000, issued under date of September 15, 1990; pursuant to Ordinance No. 3224.

"1990 Refunded Bonds" means the 1990 Bonds maturing on or after July 1, 2001, irrevocable provisions for the payment and redemption of which is made herein.

"Bond Registrar" means the fiscal agencies of the State of Washington in Seattle, Washington, and New York, New York, as the same may be designated from time to time.

"City" means the City of Kirkland, Washington, a noncharter code city of the State of Washington.

"Government Obligations" means those government obligations defined by RCW 39.53.010 as it now reads or hereafter may be amended and which are otherwise lawful investments of the City at the time of such investment.

"Maximum Annual Debt Service" means the maximum amount of Annual Debt Service which shall become due in any future year on any Outstanding Parity Bonds, Bonds and Parity Bonds.

"Operating and Maintenance Expense" means all reasonable expenses incurred by the City in causing the Waterworks Utility to be operated and maintained in good repair, working order and condition and all payments made to another agency for treatment or disposal of sewage or acquisition of water, but excluding depreciation and any City-imposed utility taxes or payments in lieu of taxes.

"Outstanding Parity Bonds" means the outstanding 1985 Bonds (until their payment and redemption on June 1, 1992, their final maturity date, 1987 Bonds and 1990 Bonds.

"Parity Bonds" means any and all revenue bonds of the City issued after the date of the issuance of the Outstanding Parity Bonds and the Bonds pursuant to the provisions of Section 12 of Ordinances Nos. 2869 and 3026, Section 17 of Ordinance No. 3224 and Section 18 of this ordinance, the payment of the principal of and interest on which constitutes a lien and charge upon the Revenue of the Waterworks Utility and ULID Assessments on a parity with the lien and charge upon such Revenue and ULID Assessments for the Outstanding Parity Bonds and the Bonds.

"Plan and System" means the plan or system of additions to and betterments and extensions of the Waterworks Utility specified, adopted and ordered to be carried out by this ordinance.

"Principal and Interest Account" means the account of that name created in the Bond Fund by Ordinance No. 2869 for the payment of the principal of and interest on the Outstanding Parity Bonds, the Bonds and any Parity Bonds.

"Refunding Plan" means (1) the placement of sufficient proceeds of the Bonds which, with other money of the City, will acquire the Acquired Obligations to be deposited with cash in trust with the Refunding Trustee, (2) the payment of the interest on the 1987 Refunded Bonds up to and including June 1, 1997, and, on June 1, 1997, the call, payment and redemption of all of the 1987 Refunded Bonds at a price of par, and (3) the payment of the interest on the 1990 Refunded Bonds up to and including July 1, 2000, and, on July 1, 2000, the call, payment and redemption of all of the 1990 Refunded Bonds at a price of par, all as provided in this ordinance and the Refunding Trust Agreement.

"Refunding Trust Agreement" means that agreement between the City and Refunding Trustee providing for the carrying out of the Refunding Plan.

"Refunding Trustee" means Seattle-First National Bank of Seattle, Washington.

"Reserve Account" means the account of that name created in the Bond Fund by Ordinance No. 2869 for the purpose of securing the payment of the principal of and interest on the Outstanding Parity Bonds, the Bonds and any Parity Bonds.

"Reserve Requirement" means the amount equal to the Average Annual Debt Service of all bonds payable from the Bond Fund.

"Revenue of the Waterworks Utility" means all the earnings and revenue received by the Waterworks Utility from any source whatsoever, except assessments in any ULID of the City, general ad valorem taxes, grants from the state or federal governments, proceeds from the sale of City property, bond proceeds and earnings subject to a federal tax or rebate requirement.

"Sinking Fund Installments" or "Sinking Fund Installment" means, in any one year, the principal of Outstanding Parity Bonds, Bonds or Parity Bonds designated in the ordinances authorizing their respective issuance and sale as Sinking Fund Installments for that year.

"Term Bond Maturity Year" means any calendar year in which the bonds of any one issue or series now or hereafter scheduled to mature (regardless of any reservation of prior redemption rights) is more than 1.25 times the average annual principal maturity of the bonds of such issue or series for the three maturity years immediately preceding such year.

"Term Bonds" means for the Bonds those Bonds scheduled to mature on June 1, 2012, and for the Outstanding Parity Bonds and any Parity Bonds means those outstanding bonds of any single issue or series scheduled to mature in any Term Bond Maturity Year.

"ULID" means utility local improvement district.

"ULID Assessments" means all ULID assessments and installments thereof, plus interest and penalties thereon, originally payable into the 1978 Bond Fund and now payable into the Bond Fund pursuant to Ordinance No. 2869 and those levied in any ULID created to secure the payment of any Parity Bonds and pledged to be paid into the Bond Fund.

"Waterworks Utility" means the combined water supply and distribution system and sanitary sewage disposal system of the City, together with all additions thereto and betterments and extensions thereof heretofore or hereafter made.

Section 2. Adoption of Plan and System. The following plan or system of additions to and betterments and extensions of the Waterworks Utility included in the City's current capital improvement program is specified, adopted and ordered to be carried out:

Sewer extensions on Slater Avenue;
Sewer Replacements on Waverly Way and Lake Street;
Sewer Improvements on N.E. 70th;
Water main replacements on Lake Washington Boulevard;
Reservoir Construction at North Rose Hill; and
Telemetering system installation.

There shall be included in the foregoing Plan and System the acquisition and installation of all necessary valves, pumps, fittings, couplings, connections, equipment and appurtenances, the acquisition of any easements, rights-of-way and land that may be required and the performance of such work as may be incidental and necessary.

All of the foregoing shall be in accordance with the plans and specifications therefor prepared by the City's engineers or consulting engineers.

The City may modify the details of the foregoing Plan and System where, in its judgment, it appears advisable and if such modifications do not substantially alter the purpose of that Plan and System.

The life of the improvements comprising the foregoing Plan and System is declared to be at least 20 years. The estimated cost of the acquisition, construction, installation and financing of the above-described improvements, including the costs of issuance and sale of the Bonds, is declared to be approximately \$4,728,000. Such costs shall be paid from the proceeds of the Bonds authorized in this ordinance, together with other available City funds.

Section 3. Findings. The City Council finds that (1) the purpose for the issuance of the Bonds qualifies as a purpose for the issuance of Parity Bonds as defined in Section 12 of Ordinances Nos. 2869 and 3026 and Section 17 of Ordinance No. 3224; (2) all payments required by Ordinances Nos. 2869, 3026 and 3224 for the 1985 Bonds, the 1987 Bonds and the 1990 Bonds, respectively, have been made into the Bond Fund; (3) there is no ULID created for the purpose of paying in whole or in part the principal of and interest on the Bonds; (4) provision is made in Section 10 hereof for the payment of the principal of and interest on the Bonds out of the Bond Fund; (5) provision hereinafter is made for the accumulation of the amounts required in the Reserve Account of the Bond Fund; and (6) there will be on file prior to the issuance and delivery of the Bonds a certificate of an independent licensed professional engineer experienced in the design, construction and operation of municipal utilities that the Revenue of the Waterworks Utility is at least equal to the Coverage Requirement (as defined herein).

Section 4. Description of Bonds. For the purpose of providing the money required to pay part of the cost of

carrying out the Plan and System, carry out the Refunding Plan and to pay the cost of issuance and sale of the Bonds, the City shall issue the Bonds in the aggregate principal amount of \$5,890,000. The Bonds shall be dated June 1, 1992; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purpose of identification; shall bear interest at the rates set forth below, payable on December 1, 1992, and semiannually thereafter on each succeeding June 1 and December 1; and shall bear interest at the rates and mature on June 1 in years and amounts as follows:

<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rates</u>
1993	\$ 10,000	3.50%
1994	15,000	4.40
1995	15,000	4.75
1996	20,000	5.00
1997	20,000	5.25
1998	165,000	5.45
1999	185,000	5.60
2000	200,000	5.75
2001	330,000	5.90
2002	350,000	6.00
2003	335,000	6.10
2004	360,000	6.20
2005	385,000	6.30
2006	405,000	6.35
2007	435,000	6.40
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2012	2,660,000	6.60

Section 5. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and recorded on books or records maintained by the Bond Registrar (the "Bond Register"). The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the fifteen days preceding any principal payment or redemption date.

Section 6. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the fifteenth day of the month preceding the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners at either of the principal offices of the Bond Registrar at the option of the owners.

Section 7. Optional and Mandatory Redemption; Open Market Purchase of Bonds. Bonds maturing in the years 1993 through 2002, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right and option to redeem the Bonds maturing on or after June 1, 2003, prior to their stated maturity dates, as a whole, or in part within one or more maturities selected by the City (and by lot within a maturity in such manner as the Bond Registrar shall determine), on June 1, 2002, or on any interest payment date thereafter, at par plus accrued interest to the date fixed for redemption.

Bonds maturing on June 1, 2012, are Term Bonds and, if not purchased in the open market or redeemed under the optional redemption provisions set forth above, shall be called for redemption by lot (in such manner as the Bond Registrar shall determine) at par plus accrued interest on the following dates and in the following amounts:

<u>Mandatory Redemption Dates (June 1)</u>	<u>Mandatory Redemption Amounts</u>
2008	\$465,000
2009	500,000
2010	530,000
2011	565,000
2012	600,000

Term Bonds previously redeemed by optional call or open market purchase shall be credited to the principal amount of those Term Bonds to be called on the next scheduled mandatory redemption date.

Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds at the option of the registered owner) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate total principal amount remaining unredeemed.

The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at a price not in excess of par plus accrued interest to the date of purchase.

All Bonds purchased or redeemed under this section shall be cancelled.

Section 8. Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond 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 owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed

when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to Moody's Investors Service, Inc., and Standard & Poor's Corporation at their offices in New York, New York, or their successors, to Piper Jaffray Inc., at its principal office in Seattle, Washington, or its successor, and to such other person and with such additional information as the City Director of Administration and Finance shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

Section 9. Failure to Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the bond redemption fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner of each of those unpaid Bonds.

Section 10. Bond Fund and Deposits into Bond Fund. The Bond Fund previously has been created in the office of the Director of Administration and Finance as a special fund of the City known as the Water and Sewer Revenue Refunding Bond Fund, 1985, which fund has been divided into two accounts, a Principal and Interest Account and a Reserve Account. So long as any of the Bonds are outstanding against the Bond Fund, the City obligates and binds itself to set aside and pay into the Bond Fund, in addition to the amounts covenanted to be paid therein by the ordinances authorizing the issuance of the Outstanding Parity Bonds and the ordinances authorizing the issuance of Parity Bonds, if any, out of the Revenue of the Waterworks Utility certain fixed amounts without regard to any fixed proportion, namely:

(a) Into the Principal and Interest Account, on or before the 20th day of each month commencing with the month of June, 1992, an amount which, together with ULID Assessments collected and other money on deposit therein, equals $1/6$ of the interest to become due and payable on the Bonds on the next interest payment date and $1/12$ of the principal to become due and payable on the Bonds on the next principal or mandatory redemption requirement payment date; and

(b) Into the Reserve Account, by June 1, 1997, an amount which, together with money on deposit therein, is equal to the Reserve Requirement.

The City covenants and agrees that it will at all times maintain in the Reserve Account an amount equal to the Reserve Requirement, except for withdrawals therefrom as authorized herein, until there is a sufficient amount in the Principal and Interest Account and Reserve Account to pay the principal of and interest on all outstanding bonds payable from the Bond Fund, at which time the money in the Reserve Account may be used to pay any such principal and interest so long as the money left remaining on deposit in the Reserve Account is no less than the Reserve Requirement of the remaining outstanding bonds payable from the Bond Fund.

In the event there shall be a deficiency in the Principal and Interest Account to meet maturing installments of either principal of or interest on any of the Outstanding Parity Bonds, the Bonds or any Parity Bonds hereafter issued, 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 will then be made up from the Revenue of the Waterworks Utility and from ULID Assessment payments which shall be first available after making necessary provisions for the required payments into the Principal and Interest Account.

All money in the Bond Fund may be kept in cash or deposited in institutions permitted by law in an amount in each institution not greater than the amount insured by any department or agency of the United States Government, or may be invested in Government Obligations or other legal investments permitted to the City maturing not later than the date when needed (for investments in the Principal and Interest Account) or the last maturity of any outstanding bonds payable from the Bond Fund (for investments in the Reserve Account). Income from investments in the Principal and Interest Account shall be deposited in that account. Income from investments in the Reserve Account shall be deposited in that account until the amount therein is equal to the Reserve Requirements of all bonds payable from the Bond Fund, and thereafter shall be deposited in the Principal and Interest Account.

Notwithstanding the provisions for the deposit or maintenance of earnings in accounts of the Bond Fund, any earnings which are subject to a federal tax or rebate requirement may be withdrawn from the Bond Fund for deposit into a separate fund or account for that purpose.

It is declared that in creating the Bond Fund and in fixing the amounts to be paid into it as aforesaid, the City Council has had due regard for Operating and Maintenance Expense and the debt service requirements of the Outstanding Parity Bonds, and declares that the City Council is not setting aside into the Bond Fund a greater amount than in its judgment will be available over and above such Operating and Maintenance Expense and debt service requirements of the Outstanding Parity Bonds.

If the City fails to set aside and pay into the Bond Fund the amounts set forth above, the owner of any of the outstanding bonds payable out of the Bond Fund may bring action against the City and compel the setting aside and payment.

Section 11. Lien Position. The provisions of Section 12 of Ordinances Nos. 2869 and 3026 and Section 17 of Ordinance No. 3224 having been met and complied with, or will have been met and complied with on the date of issuance of the Bonds, the Revenue of the Waterworks Utility and all ULID Assessments are pledged for the payment of the Bonds. This pledge shall constitute a lien and charge upon such Revenue of the Waterworks Utility and ULID Assessments prior and superior to any other liens and charges whatsoever, subject only to Operating and Maintenance Expense with respect to that Revenue, except that the lien and charge upon such Revenue and ULID Assessments for the Bonds shall be on a parity with the lien and charge thereon of the Outstanding Parity Bonds and any Parity Bonds hereafter issued.

Section 12. Refunding of the Refunded Bonds.

(a) Acquisition and Substitution of Acquired Obligations. \$2,557,700 of the proceeds of the sale of the Bonds shall be deposited immediately upon the receipt thereof with the Refunding Trustee to discharge the obligation of the City to carry out the Refunding Plan by providing for the payment of the amounts required to be paid by the Refunding Plan. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of Acquired Obligations bearing such interest rates and maturing as to principal and interest in such amounts and at such times so as to provide for the payment of the amounts required to be paid by the Refunding Plan. The Acquired Obligations are listed and more particularly described in Schedule A attached to the Refunding Trust Agreement, but are subject to substitution as set forth below.

Prior to the purchase of any such Acquired Obligations, the City reserves the right to substitute other direct, non-callable obligations of the United States of America ("Substitute Obligations") for any of the Acquired Obligations and to use any savings created thereby for any lawful City purpose if, (a) in the opinion of Foster Pepper & Shefelman, the City's bond counsel, the interest on the Bonds will remain excluded from gross income for federal income tax purposes under Sections 103, 148 and 149(d) of the Code, and (b) such substitution shall not impair the timely payment of the amounts required to be paid by the Refunding Plan as so verified by an independent nationally recognized firm of certified public accountants.

After the purchase of the Acquired Obligations by the Refunding Trustee, the City reserves the right to substitute therefor cash or Government Obligations subject to the conditions that such money or securities held by the Refunding Trustee shall be sufficient to carry out the Refunding Plan, that such substitution will not cause the Bonds to be arbitrage bonds within the meaning of Section 148 of the Code and regulations thereunder in effect on the date of such substitution and applicable to obligations issued on the issue date of the Bonds, and that the City obtain, at its expense: (1) verification by an independent nationally recognized firm of certified public accountants acceptable to the Refunding Trustee confirming that the payments of principal of and interest on the substitute Acquired Obligations, if paid when due, and any other money held by the Refunding Trustee will be sufficient to carry out the Refunding Plan; and (2) an opinion from Foster Pepper & Shefelman, bond counsel to the City, its successor, or other nationally recognized bond counsel to the City, to the effect that the disposition and substitution or purchase of such securities, under the statutes, rules and regulations then in force and applicable to the Bonds, will not cause the interest on the Bonds or the 1987 Refunded Bonds to be included in gross income for federal income tax purposes and that such disposition and substitution or purchase is in compliance with the statutes and regulations applicable to the Bonds. Any surplus money resulting from the sale, transfer, other disposition or redemption of the Acquired Obligations and the substitutions therefor shall be released from the trust estate and transferred to the City to be used for any lawful Waterworks Utility purpose.

(b) Administration of Refunding Plan. The Refunding Trustee is authorized and directed to purchase the Acquired

Obligations (or substitute obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or substitute obligations) and money deposited with the Refunding Trustee pursuant to this ordinance. All Acquired Obligations (or substitute obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of Ordinances Nos. 3026, and 3224, with respect to the 1987 Refunded Bonds and 1990 Refunding Bonds, respectively, this ordinance, Chapter 39.53 RCW and other applicable statutes of the State of Washington, and the Refunding Trust Agreement. All necessary and proper fees, compensation and expenses of the Refunding Trustee for the Bonds and all other costs incidental to establishing the escrow to accomplish the refunding of the outstanding Refunded Bonds and costs related to the issuance and delivery of the Bonds, including bond printing, rating service fees, insurance premiums, verification fees, bond counsel's fees and other related expenses, shall be paid out of the proceeds of the Bonds.

(c) Authorization for Refunding Trust Agreement. In order to carry out the Refunding Plan provided for by this ordinance, the Director of Administration and Finance is authorized and directed to execute and deliver to the Refunding Trustee a Refunding Trust Agreement substantially in the form on file with the City Clerk and by this reference made a part hereof, setting forth the duties, obligations and responsibilities of the Refunding Trustee in connection with the payment, redemption and retirement of the outstanding Refunded Bonds as provided herein and stating that the provisions for payment of the fees, compensation and expenses of the Refunding Trustee set forth therein are satisfactory to it. Prior to executing the Refunding Trust Agreement, the City Director of Administration and Finance is authorized to make such changes therein which do not change the substance and purpose thereof or which assure that the escrow provided therein and the Bonds are in compliance with the requirements of federal law governing the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 13. Calls for Redemption of the Refunded Bonds. The City calls for redemption on June 1, 1997, all of the outstanding 1987 Refunded Bonds at par plus accrued interest.

The City calls for redemption on July 1, 2000, all of the outstanding 1990 Refunded Bonds at par plus accrued interest.

Such calls for redemption shall be irrevocable after the delivery of the Bonds to the initial purchaser thereof. The dates on which the Refunded Bonds are called for redemption are the next dates on which those bonds may be called at a premium of 3% or less.

The proper City officials are authorized and directed to cause the fiscal agencies to give such notices as required, at the times and in the manner required by Ordinances Nos. 3026 and 3224 in order to effect the redemption prior to their maturity of the 1987 Refunded Bonds and 1990 Refunded Bonds, respectively.

Section 14. Form and Execution of Bonds. The Bonds shall be printed on lithographed or good bond paper in a form consistent with the provisions of this ordinance and state law, shall be signed by the Mayor and Director of

Administration and Finance, either or both of whose signatures shall be in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only such Bonds as shall bear thereon a Certificate of Authentication in the following form, manually executed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This bond is one of the fully registered City of Kirkland, Washington, Water and Sewer Revenue and Refunding Bonds, 1992, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENCY
Bond Registrar

By _____
Authorized Officer

The authorized signing of such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

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

Section 15. Bond Registrar. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds which shall at all times be open to inspection by the City. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and City Ordinance No. 2758 establishing a system of registration for the City's bonds and obligations.

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

Section 16. Bonds Negotiable. The Bonds shall be negotiable instruments to the extent provided by RCW 62A.8-102 and 62A.8-105.

Section 17. The City covenants and agrees with the owner of each of the Bonds as follows:

(a) It will establish, maintain, revise as necessary and collect such rates and charges for water and sanitary sewage disposal service furnished which, together with ULID Assessments which will be collected in any such year and other revenue available therefor, will produce Revenue of the Waterworks Utility available for debt service each calendar year, after payment of Operating and Maintenance Expense, at least equal to 1.25 times the Annual Debt Service in any year thereafter on all Outstanding Parity Bonds, Bonds and Parity Bonds actually payable from the Revenue of the Waterworks Utility (the "Coverage Requirement").

(b) It will at all times maintain and keep the Waterworks Utility 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) It will collect promptly all ULID Assessments. Such assessments may be used to pay the principal of or interest on any bonds payable out of the Bond Fund without those assessments being particularly allocated to the payment of principal of or interest on any particular series of Outstanding Parity Bonds, Bonds or Parity Bonds.

(d) It will not sell, lease, mortgage or in any manner encumber or dispose of all the property of the Waterworks Utility 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 the Waterworks Utility 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 payable from the Bond Fund as the Revenue of the Waterworks Utility available for debt service for such outstanding bonds for the twelve months preceding such sale, lease, encumbrance or disposal from the portion of the Waterworks Utility sold, leased, encumbered or disposed of bears to the Revenue of the Waterworks Utility available for debt service for such bonds for the same period. Any such money so paid into the Bond Fund shall be used to retire outstanding bonds payable therefrom at the earliest possible date and until being so used may be invested to the same extent and in the same manner as provided for the investment of money in the Reserve Account in the Bond Fund.

(e) It will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the Waterworks Utility, and it will furnish the owner or owners of the Bonds or any subsequent owner or owners thereof, at the written request of such owner or owners, complete operating and income statements of the Waterworks Utility in reasonable detail covering any calendar year not more than 120 days after the close of such calendar year and it will grant any owner or owners of at least twenty-five percent of the outstanding Bonds the right at all reasonable times to inspect the entire Waterworks Utility and all records, accounts and data of the City relating thereto. Upon request of any owner of any of the Bonds, it also will furnish to such owner a copy of the most recently completed audit of the City's accounts by the State Auditor of Washington.

(f) It will not furnish any service of the Waterworks Utility to any customer whatsoever free of charge and will take prompt legal action to enforce collection of all delinquent accounts.

(g) It will at all times carry fire and such other forms of insurance on such of the buildings, equipment, facilities and properties of the City as under good practice are ordinarily carried on such buildings, equipment, facilities, and properties by utilities engaged in the operation of water and sewer systems to the full insurable value thereof, and also will carry adequate public liability insurance (and war risk insurance if available at reasonable rates) at all times. The premiums on such insurance policies are declared to be a normal part of Operating and Maintenance Expense.

(h) It will pay all Operating and Maintenance Expense and otherwise meet the obligations of the City as herein set forth.

(i) 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 which will cause the interest on the Bonds to be included in gross income for federal income tax purposes. To the extent arbitrage rebate requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), are applicable to the Bonds, it will take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Bonds, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 248 of the Code to prevent interest on the Bonds from being included in gross income for federal income tax purposes.

It has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

(j) It will use, pay out and distribute the Revenue of the Waterworks Utility, other than money deposited in bond redemption funds, in the following order of priority:

(1) To pay Operating and Maintenance Expense;

(2) To meet the required debt service payments on the Outstanding Parity Bonds, the Bonds and any Parity Bonds hereafter issued by making payments into the Principal and Interest Account;

(3) To make required payments into the Reserve Account; and

(4) To meet the required debt service on any water and sewer revenue bonds issued having a charge and lien on the Revenue of the Waterworks Utility junior to the Bonds; to redeem and retire any then outstanding water and sewer revenue bonds or to purchase any or all of those bonds in the open market as provided in this ordinance; to make necessary betterments and replacements of or repairs, additions or extensions to the Waterworks Utility; or for any other lawful purpose.

Section 18. Designation of Bonds as "Qualified Tax-Exempt Obligations." The City has determined and certifies that (a) the Bonds are not "private activity bonds" within the meaning of Section 141 of the Code; (b) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and any other obligations not required to be included in such calculation) which the City and any entity subordinate to the City (including any entity which the City controls, which derives its authority to issue tax-exempt obligations from the City or which issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Bonds are issued will not exceed \$10,000,000; and (c) 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 the calendar year in which the Bonds are issued does not exceed \$10,000,000. The City designates the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code.

Section 19. Provisions for Parity Bonds. The City further covenants with the owner of each of the Bonds for as long as any of the same are outstanding that it will not create any special fund or funds for the payment of the principal of and interest on any other revenue bonds which will have any priority over or which will rank on a parity with the payments required by this ordinance to be made out of the Revenue of the Waterworks Utility and ULID Assessments, nor will it issue Parity Bonds, except that it reserves the right for

First, the purpose of acquiring, constructing and installing additions, betterments and improvements to and extensions of, acquiring necessary equipment for, or making necessary replacements of or repairs or capital improvements to the Waterworks Utility pursuant to a plan or plans of additions and betterments thereto hereafter adopted, or

Second, the purpose of refunding by exchange or purchasing and retiring or advance refunding by call and payment at or prior to their maturity any part or all of the outstanding Bonds or Parity Bonds,

to issue additional and/or refunding revenue bonds therefor, and to make payments into the Bond Fund from the Revenue of the Waterworks Utility and ULID Assessments sufficient to pay the principal of and interest on such Parity Bonds and to accumulate and maintain a reserve therefor as hereinafter required, which payments may rank equally with the payments out of the Revenue of the Waterworks Utility and ULID Assessments required to be made into the Bond Fund by this ordinance, if the conditions and requirements set forth in Section 12 of Ordinances Nos. 2869 and 3026 and Section 17 of Ordinance No. 3224 are met and complied with at the time of the issuance of such Parity Bonds, which sections by this reference are incorporated herein and made a part hereof.

Nothing contained in the provisions for Parity Bonds shall prevent the City from issuing revenue bonds or other obligations having a junior lien on the Revenue of the Waterworks Utility or from pledging the payment of assessments in any ULID into a bond, note, or warrant redemption fund or account created to pay and secure the payment of the principal of and interest on such junior lien obligations as long as such assessments are levied to pay part or all of the cost of improvements being constructed out of the proceeds of the sale of such junior lien obligations. Neither shall anything contained in this ordinance prevent the City from issuing revenue bonds to refund maturing revenue obligations of the City for the payment of which money is not otherwise available.

Section 20. Refunding or Defeasance of Bonds. In the event the City shall issue advance refunding bonds pursuant to the laws of the State of Washington, or have money available from any other lawful source, to pay the principal of and interest on the Bonds or such portion thereof included in the refunding or defeasance plan as the same become due and payable and to refund or defease such then outstanding Bonds and to pay the costs of refunding or defeasance, and shall have set aside irrevocably in a special fund for and pledged to such payment, refunding or defeasance, money and/or Government Obligations sufficient in amount, together with known earned income from the investments thereof, to make such payments and to accomplish the refunding as scheduled (hereinafter called the "trust account"), and shall make irrevocable provisions for redemption of such Bonds, then in that case all right and interest of the owners of the Bonds to be so retired, refunded or defeased (hereinafter collectively called the "defeased Bonds") in the covenants of this ordinance, in the Revenue of the Waterworks Utility, ULID Assessments and funds and accounts obligated to the payment of such Bonds, other than the right to receive the funds so set

aside and pledged, thereupon shall cease and become void, except such owners shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. After the establishing and full funding of such trust account, the City then may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine, subject only to the rights of the owners of any other bonds then outstanding.

In the event that the refunding plan provides that the Bonds being refunded or the refunding bonds to be issued be secured by cash and/or Government Obligations or other legal investments pending the prior redemption of those Bonds being refunded and if such refunding plan also provides that certain cash and/or Government Obligations or other legal investments are pledged irrevocably for the prior redemption of those Bonds included in the refunding plan, then only the debt service on the Bonds which are not defeased Bonds and the refunding bonds, the payment of which is not so secured by the refunding plan, shall be included in the computation of coverage for issuance of Parity Bonds and the annual computation of coverage for determining compliance with the rate covenants.

Section 21. Construction Fund and Deposit of Bond Proceeds. There is created in the office of the Director of Administration and Finance a special fund to be known and designated as the Waterworks Utility Construction Fund, 1992 (the "Construction Fund"), into which fund shall be deposited, after the deposit required by Section 12 herein, the remaining principal proceeds received from the issuance and sale of the Bonds to be used to pay the costs of carrying out the Plan and System. Pending the expenditure of such principal proceeds out of the Construction Fund, the money in such fund may be invested in any legal investment and the investment income may be retained in such fund and used for the purposes of such fund. The accrued interest, if any, on the Bonds received at the time the Bonds are delivered to the initial purchaser thereof shall be deposited in the Principal and Interest Account.

Section 22. Sale of Bonds and Approval of Bond Purchase Contract. Piper Jaffray Inc. of Seattle, Washington (the "Purchaser"), has presented a Bond Purchase Contract (the "Bond Purchase Contract") to the City whereunder the Purchaser has offered to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the Director of Administration and Finance and is incorporated herein by this reference. The City Council finds that entering into the Bond Purchase Contract is in the City's best interest and therefore accepts the offer contained in the Bond Purchase Contract and authorizes the execution of the Bond Purchase Contract by City officials.

The Bonds will be printed at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Contract offer with the approving legal opinion of Foster Pepper & Shefelman, municipal bond counsel of Seattle, Washington, relative to the issuance of the Bonds, printed on each Bond. Bond counsel has not been engaged and shall not be required to review or express any opinion concerning the completeness or accuracy of any official statement, offering

circular or other sales material issued or used in connection with the Bonds and bond counsel's opinion shall so state.

The City Council has been provided with copies of a preliminary official statement dated April 24, 1992 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. For the sole purpose of the Purchaser's compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City "deems final" that Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings and other terms of the Bonds dependent on such matters.

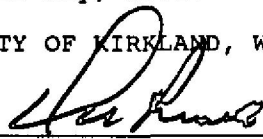
The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to the Purchaser and for the proper application and use of the proceeds of the sale thereof.

Section 23. Temporary Bond. Pending the printing, execution and delivery to the purchaser of definitive Bonds, the City may cause to be executed and delivered to the purchaser a single temporary Bond in the total principal amount of the Bonds. The temporary Bond shall bear the same date of issuance, interest rates, principal payment dates and terms and covenants as the definitive Bonds, shall be issued as a fully registered Bond in the name of the purchaser, and otherwise shall be in a form acceptable to the purchaser. The temporary Bond shall be exchanged for definitive Bonds as soon as they are printed, executed and available for delivery.

Section 24. Effective Date. This ordinance shall take effect and be in force from and after its passage and five (5) days after its publication as required by law.

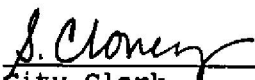
PASSED by the City Council and APPROVED by the Mayor of the City of Kirkland, Washington, at a regular open public meeting thereof, this 19th day of May, 1992.

CITY OF KIRKLAND, WASHINGTON




MAYOR

ATTEST:



Deputy City Clerk

FORM APPROVED:

By 
City Attorney