

ORDINANCE NO. O-3801

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,785,000 TO FINANCE THE ACQUISITION OF A BUILDING IN DOWNTOWN KIRKLAND FOR CITY USE; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF SAID BONDS AND FOR TAX LEVIES TO PAY THE PRINCIPAL THEREOF AND INTEREST THEREON; AUTHORIZING A PRELIMINARY OFFICIAL STATEMENT; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SALE; AND APPROVING THE SALE OF SUCH BONDS.

WHEREAS, the City of Kirkland, Washington (the "City"), has need for a building in downtown Kirkland for use by the City; and

WHEREAS, the City is authorized to issue general obligation bonds to finance such public purpose without a vote of the electors within its statutory limits of indebtedness; and

WHEREAS, the indebtedness represented by the Bonds herein authorized, together with all other non-voted indebtedness of the City, will be within the statutory limitation of debt permitted to the City; and

WHEREAS, the City has received the offer from U.S. Bancorp Piper Jaffray Inc., Seattle, Washington to underwrite the Bonds at terms acceptable to this City Council;

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:

*Bond Fund* means the City of Kirkland General Obligation Bond Redemption Fund, 2001B created pursuant to Section 10 of this ordinance.

**Bond Register** means the registration books showing the name, address and tax identification number of each Registered Owner of the Bonds, maintained pursuant to Section 149(a) of the Code.

**Bond Registrar** means, initially, the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York, for the purposes of registering and authenticating the Bonds, maintaining the Bond Register, effecting transfer of ownership of the Bonds and paying interest on and principal of the Bonds.

**Bonds** means the \$1,785,000 principal amount of the City of Kirkland, Washington Limited Tax General Obligation Bonds, 2001B issued pursuant to this ordinance for the purpose of paying costs authorized by Section 2 hereof.

**Bond Year** means each one-year period that ends on the date selected by the City. The first and last Bond Years may be short periods. If no day is selected by the City before the earlier of the final maturity date of the Bonds or the date that is five years after the date of issuance of the Bonds, Bond Years end on each anniversary of the date of issue and on the final maturity date of the Bonds.

**City** means the City of Kirkland, Washington, a municipal corporation of the State of Washington.

**Code** means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

**Commission** means the Securities and Exchange Commission.

**Council** means the City Council as the general legislative authority of the City, as the same shall be duly and regularly constituted from time to time.

**DTC** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 3 hereof.

**Finance Director** means the Finance Director of the City, or any successor to the functions of the Finance Director.

**Government Obligations** means those obligations now or hereafter defined as such in chapter 39.53 RCW.

**Letter of Representations** means the blanket issuer letter of representations from the City to DTC.

**MSRB** means the Municipal Securities Rulemaking Board or any successor to its functions.

**Net Proceeds**, when used with reference with the Bonds, means the principal amount of the Bonds, plus accrued interest and original issue premium, if any, and less original issue discount.

**NRMSIR** means a nationally recognized municipal securities information repository.

**Private Person** means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

**Private Person Use** means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes

attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

***Project*** means the acquisition of a building in downtown Kirkland for City use.

***Project Fund*** means the fund of the City used to pay the costs of the Project and costs of issuance of the Bonds.

***Registered Owner*** means the person named as the registered owner of a Bond in the Bond Register. For so long as the Bonds are held in book-entry only form, DTC shall be deemed to be the sole Registered Owner.

***Rule*** means the Commission's Rule 15c2-12 under the Securities and Exchange Act of 1934, as the same may be amended from time to time.

***SID*** means a state information depository for the State of Washington.

***Underwriter*** means U.S. Bancorp Piper Jaffray Inc., Seattle, Washington.

**Section 2.** **Authorization of Bonds and Bond Details.** For the purpose of financing the cost of acquiring a building in downtown Kirkland for City use (the "Project") and the cost of issuance of the Bonds, the City shall issue its limited tax general obligation bonds in the aggregate principal amount of \$1,785,000 (the "Bonds"). The Bonds shall be general obligations of the City, shall be designated "City of Kirkland, Washington Limited Tax General Obligation Bonds, 2001B"; shall be dated as of October 15, 2001; shall be fully registered as to both

principal and interest; shall be in the denomination of \$5,000 each, or any integral multiple thereof, in the aggregate principal amount of \$1,785,000; shall be numbered separately in such manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; and shall bear interest from their date at 3.70% per annum, payable on June 1, 2002, and semiannually thereafter on the first days of each succeeding December and June and shall mature on December 1, 2007.

Section 3. Registration, Exchange and Payments.

(a) *Bond Registrar/Bond Register.* The City hereby specifies and adopts the system of registration approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agencies. The City shall cause a bond register to be maintained by the Bond Registrar. So long as any Bonds remain outstanding, the Bond Registrar shall make all necessary provisions to permit the exchange or registration or transfer of Bonds at its principal corporate trust office. The Bond Registrar may be removed at any time at the option of the City upon prior notice to the Bond Registrar, DTC, each NRMSIR and SID, if any, and a successor Bond Registrar appointed by the City. No resignation or removal of the Bond Registrar shall be effective until a successor shall have been appointed and until the successor Bond Registrar shall have accepted the duties of the Bond Registrar hereunder. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this ordinance and to carry out all of the Bond Registrar's powers and duties under this ordinance. The Bond Registrar shall be responsible for its representations contained in the Certificate of Authentication of the Bonds.

(b) *Registered Ownership.* The City and the Bond Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof

for all purposes (except as provided in Section 14 of this ordinance), and neither the City nor the Bond Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 3(h) hereof, but such Bond may be transferred as herein provided. All such payments made as described in Section 3(h) shall be valid and shall satisfy and discharge the liability of the City upon such Bond to the extent of the amount or amounts so paid.

(c) *DTC Acceptance/Letters of Representations.* The Bonds initially shall be held in fully immobilized form by DTC acting as depository. To induce DTC to accept the Bonds as eligible for deposit at DTC, the City shall execute and deliver to DTC a Blanket Issuer Letter of Representations. Neither the City nor the Bond Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees (or any successor depository) with respect to the Bonds in respect of the accuracy of any records maintained by DTC (or any successor depository) or any DTC participant, the payment by DTC (or any successor depository) or any DTC participant of any amount in respect of the principal of or interest on Bonds, any notice which is permitted or required to be given to Registered Owners under this ordinance (except such notices as shall be required to be given by the City to the Bond Registrar or to DTC (or any successor depository)), or any consent given or other action taken by DTC (or any successor depository) as the Registered Owner. For so long as any Bonds are held in fully-immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC (or any successor depository) or its nominee and shall not mean the owners of any beneficial interest in such Bonds.

If any Bond shall be duly presented for payment and funds have not been duly provided by the City on such applicable date, then interest shall continue to accrue thereafter on the unpaid principal thereof at the rate stated on such Bond until it is paid.

(d) *Use of Depository.*

(i) The Bonds shall be registered initially in the name of "Cede & Co.", as nominee of DTC, with one Bond maturing on each of the maturity dates for the Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (B) to any substitute depository appointed by the Finance Director pursuant to subsection (ii) below or such substitute depository's successor; or (C) to any person as provided in subsection (iv) below.

(ii) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Council to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Council may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(iii) In the case of any transfer pursuant to clause (A) or (B) of subsection (i) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request on behalf of the Council, issue a single new Bond for each maturity then

outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Council.

(iv) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Finance Director determines that it is in the best interest of the beneficial owners of the Bonds that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any person or entity as herein provided, and shall no longer be held in fully-immobilized form. The Council shall deliver a written request to the Bond Registrar, together with a supply of definitive Bonds, to issue Bonds as herein provided in any authorized denomination. Upon receipt by the Bond Registrar of all then outstanding Bonds together with a written request on behalf of the Council to the Bond Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.* The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless it is surrendered to the Bond Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the Bond Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered



Bond, in exchange for such surrendered and cancelled Bond. Any Bond may be surrendered to the Bond Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same date, maturity and interest rate, in any authorized denomination. The Bond Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding any interest payment or principal payment date any such Bond is to be redeemed.

(f) *Bond Registrar's Ownership of Bonds.* The Bond Registrar may become the Registered Owner of any Bond 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 member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

(g) *Registration Covenant.* The City covenants that, until all Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of each Bond that complies with the provisions of Section 149 of the Code.

(h) *Place and Medium of Payment.* 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 calculated on the basis of a year of 360 days and twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations. In the event that the Bonds are no longer in fully immobilized form, interest on the Bonds shall be paid by check or draft mailed to the Registered Owners at the addresses for such Registered Owners 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 such Bonds by the Registered Owners at the principal office of the Bond Registrar.

Section 4. Redemption Prior to Maturity and Purchase of Bonds.

(a) *Optional Redemption.* The Bonds are not subject to redemption prior to maturity.

(b) *Purchase of Bonds.* The City reserves the right to purchase any of the Bonds offered to it at any time at a price deemed reasonable by the City.

Section 5. Form of Bonds.

The Bonds shall be in substantially the following form:

*Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to Issuer or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.*

UNITED STATES OF AMERICA

NO. \_\_\_\_\_

\$ \_\_\_\_\_

STATE OF WASHINGTON

CITY OF KIRKLAND, WASHINGTON

LIMITED TAX GENERAL OBLIGATION BOND, 2001B

INTEREST RATE: 3.700% MATURITY DATE: December 1, 2007 CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

The City of Kirkland, Washington (the "City"), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above, the Principal Amount indicated above and to pay

interest thereon from October 15, 2001, or the most recent date to which interest has been paid or duly provided for until payment of this bond at the Interest Rate set forth above, payable on June 1, 2002, and semiannually thereafter on the first days of each succeeding December and June. Both principal of and interest on this bond are payable in lawful money of the United States of America. Interest shall be paid as provided in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to The Depository Trust Company ("DTC"). Principal shall be paid as provided in the Letter of Representations to the Registered Owner or assigns upon presentation and surrender of this bond at the principal office of the fiscal agencies of the State of Washington in either Seattle, Washington or New York, New York (collectively, the "Bond Registrar").

The bonds of this issue are issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and Ordinance No. O-3801 duly passed by the City Council on October 16, 2001 (the "Bond Ordinance"). Capitalized terms used in this bond have the meanings given such terms in the Bond Ordinance.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Ordinance until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Bond Registrar or its duly designated agent.

This bond is one of an authorized issue of bonds of like date, tenor, rate of interest and date of maturity, except as to number and amount in the aggregate principal amount of \$1,785,000 and is issued pursuant to the Bond Ordinance for providing funds to finance the acquisition of real property for use by the city, and pay the cost of issuance.

The bonds of this issue are not subject to redemption prior to their stated maturity.

The City hereby irrevocably covenants and agrees with the owner of this bond that it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to cities without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

The bonds of this issue are not "qualified tax-exempt obligations" for investment by financial institutions under Section 265(b) of the Code.

The pledge of tax levies for payment of principal of and interest on the bonds may be discharged prior to maturity of the bonds by making provision for the payment thereof on the terms and conditions set forth in the Bond Ordinance.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this bond have happened, been done and performed and that



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

In case either of the officers who shall have executed the Bonds shall cease to be an officer or officers of the City before the Bonds so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. Any Bond may be signed and attested on behalf of the City by such persons who at the date of the actual execution of such Bond, are the proper officers of the City, although at the original date of such Bond any such person shall not have been such officer of the City.

Section 7.     Tax Covenants. The City covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exemption from federal income taxation of the interest on the Bonds and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exemption from federal income taxation of the interest on the Bonds.

(a)     *Arbitrage Covenant.* Without limiting the generality of the foregoing, the City covenants that it will not take any action or fail to take any action with respect to the proceeds of sale of the Bonds or any other funds of the City which may be deemed to be proceeds of the Bonds pursuant to Section 148 of the Code and the regulations promulgated thereunder which, if such use had been reasonably expected on the dates of delivery of the Bonds

to the initial purchasers thereof, would have caused the Bonds to be treated as "arbitrage bonds" within the meaning of such term as used in Section 148 of the Code.

The City represents that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is an issuer whose arbitrage certifications may not be relied upon. The City will comply with the requirements of Section 148 of the Code and the applicable regulations thereunder throughout the term of the Bonds.

(b) *Private Person Use Limitation for Bonds.* The City covenants that for as long as the Bonds are outstanding, it will not permit:

(1) More than 10% of the Net Proceeds of the Bonds to be allocated to any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Bonds in a Bond Year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the Net Proceeds of the Bonds are allocable to any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Bonds in a Bond Year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the project described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the project funded by the proceeds of the Bonds, and (ii) any Private Person Use will not exceed the amount of Net Proceeds of the Bonds allocable to the state or local governmental use portion of the project to which the Private Person Use of such portion of the project funded by the proceeds of the Bonds relate. The City further covenants that it will comply with any limitations on the use of the project funded by the proceeds of the Bonds by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Bonds. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds.

(c) *Modification of Tax Covenants.* The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Bonds. To that end, the provisions of this section may be modified or eliminated without any requirement for formal amendment thereof upon receipt of an opinion of the City's bond counsel that such modification or elimination will not adversely affect the tax exemption of interest on any Bonds.

Section 8. Creation of Bond Fund and Provision for Tax Levy Payments. The Finance Director is hereby authorized and directed to create a fund to be used for the payment of debt service on the Bonds, to be designated as the "General Obligation Bond Fund, 2001B" (the "Bond Fund"). The City hereby irrevocably covenants and agrees that, unless the principal of and interest on the Bonds are paid from other sources, it will include in its annual budget and levy taxes annually, within and as a part of the tax levy permitted to the City without a vote of the electorate, upon all the property subject to taxation in amounts sufficient, together with other money legally available therefor, to pay the principal of and interest on the Bonds as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 9. Application of Bond Proceeds. The accrued interest on the Bonds received by the City as a part of the Bond proceeds on the date of issuance and delivery of the Bonds shall be deposited in the Bond Fund and used to pay the accrued interest on the Bonds on June 1, 2002. The balance of the Bond proceeds shall be deposited in the Project Fund and used to pay costs of issuance and the costs of the Project. Money in the Project Fund may be invested in any legal investment for City funds.

Section 10. Defeasance. In the event that the City, in order to effect the payment, retirement or redemption of any Bond, sets aside in the Bond Fund or in another special account, cash or noncallable Government Obligations, or any combination of cash and/or noncallable Government Obligations, in amounts and maturities which, together with the known earned income therefrom, are sufficient to redeem or pay and retire such Bond in accordance with its terms and to pay when due the interest and redemption premium, if any, thereon, and such cash



and/or noncallable Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund for the payment of the principal of and interest on such Bond. The owner of a Bond so provided for shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal, premium, if any, and interest from such special account, and such Bond shall be deemed to be not outstanding under this ordinance.

The City shall give written notice of defeasance to the owners of all Bonds so provided for within 30 days of the defeasance and to the SID, if any, and to each NRMSIR or to the MSRB in accordance with Section 14.

Section 11. Sale of Bonds. The Bonds shall be sold by negotiated sale to the Underwriter, under the terms and conditions thereof as provided in its purchase offer and in this ordinance.

The Mayor and the Finance Director of the City are hereby authorized to review and approve on behalf of the City the preliminary and final Official Statements relative to the Bonds with such additions and changes as may be deemed necessary or advisable to them. The preliminary Official Statement for the Bonds, dated October 8, 2001, is hereby deemed final for the purposes of Securities and Exchange Commission Rule 15c2-12.

The Finance Director and other City officials, agents and representatives are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Bonds to the Underwriter and for the proper application and use of the proceeds of sale of the Bonds.

Section 12. Undertaking to Provide Ongoing Disclosure.

(a) *Contract/Undertaking.* This section constitutes the City's written undertaking for the benefit of the owners of the Bonds as required by Section (b)(5) of the Rule.

(b) *Financial Statements/Operating Data.* The City agrees to provide or cause to be provided to each NRMSIR and to the SID, if any, in each case as designated by the SEC in accordance with the Rule, the following annual financial information and operating data for the prior fiscal year (commencing in 2002 for the fiscal year ended December 31, 2001):

1. Annual financial statements, which statements may or may not be audited, showing ending fund balances for the City's general fund prepared in accordance with the Budgeting Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) and generally of the type included in the official statement for the Bonds under the heading "FINANCIAL INFORMATION";

2. The assessed valuation of taxable property in the City;
3. Ad valorem taxes due and percentage of taxes collected;
4. Property tax levy rate per \$1,000 of assessed valuation; and
5. Outstanding general obligation debt of the City.

Items 2-5 shall be required only to the extent that such information is not included in the annual financial statements.

The information and data described above shall be provided on or before nine months after the end of the City's fiscal year. The City's current fiscal year ends December 31. The City may adjust such fiscal year by providing written notice of the change of fiscal year to each then existing NRMSIR and the SID, if any. In lieu of providing such annual financial information and operating data, the City may cross-reference to other documents provided to the NRMSIR,

the SID or to the SEC and, if such document is a final official statement within the meaning of the Rule, available from the MSRB.

If not provided as part of the annual financial information discussed above, the City shall provide the City's audited annual financial statement prepared in accordance with the Budgeting Accounting and Reporting System prescribed by the Washington State Auditor pursuant to RCW 43.09.200 (or any successor statute) when and if available to each then existing NRMSIR and the SID, if any.

(c) *Material Events.* The City agrees to provide or cause to be provided, in a timely manner, to the SID, if any, and to each NRMSIR or to the MSRB notice of the occurrence of any of the following events with respect to the Bonds, if material:

- Principal and interest payment delinquencies;
- Non-payment related defaults;
- Unscheduled draws on debt service reserves reflecting financial difficulties;
- Unscheduled draws on credit enhancements reflecting financial difficulties;
- Substitution of credit or liquidity providers, or their failure to perform;
- Adverse tax opinions or events affecting the tax-exempt status of the Bonds;
- Modifications to the rights of Bond owners;
- Bond calls (optional, contingent or unscheduled Bond calls other than scheduled sinking fund redemptions for which notice is given pursuant to Exchange Act Release 34-23856);
- Defeasances;
- Release, substitution or sale of property securing repayment of the Bonds; and
- Rating changes.

Solely for purposes of disclosure, and not intending to modify this undertaking, the City advises that no debt service reserves, credit enhancement or property secures payment of the Bonds, and the Bonds are not subject to optional redemption.

(d) *Notification Upon Failure to Provide Financial Data.* The City agrees to provide or cause to be provided, in a timely manner, to each NRMSIR or to the MSRB and to the SID, if any, notice of its failure to provide the annual financial information described in Subsection (b) above on or prior to the date set forth in Subsection (b) above.

(c) *Termination/Modification.* The City's obligations to provide annual financial information and notices of material events shall terminate upon the legal defeasance, prior redemption or payment in full of all of the Bonds. Any provision of this section shall be null and void if the City (1) obtains an opinion of nationally recognized bond counsel to the effect that the portion of the Rule that requires that provision is invalid, has been repealed retroactively or otherwise does not apply to the Bonds and (2) notifies each NRMSIR and the SID, if any, of such opinion and the cancellation of this section.

The City may amend this section with an opinion of nationally recognized bond counsel in accordance with the Rule. In the event of any amendment of this section, the City shall describe such amendment in the next annual report, and shall include, a narrative explanation of the reason for the amendment and its impact on the type (or in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a material event under Subsection (c), and (ii) the annual report for the year in which the change is made shall present a comparison (in narrative form and also, if feasible, in quantitative form)

between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

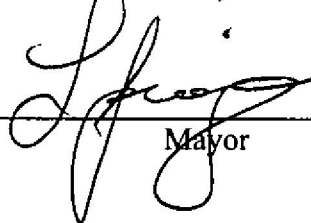
(f) *Bond Owner's Remedies Under This Section.* The right of any bondowner or beneficial owner of Bonds to enforce the provisions of this section shall be limited to a right to obtain specific enforcement of the City's obligations under this section, and any failure by the City to comply with the provisions of this undertaking shall not be an event of default with respect to the Bonds. For purposes of this section, "beneficial owner" means any person who has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds, including persons holding Bonds through nominees or depositories.

Section 13. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Bond Registrar may execute and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City in connection therewith and upon his/her filing with the City evidence satisfactory to the City that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City with indemnity satisfactory to the City.

Section 14. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds.

ADOPTED by the City Council of the City of Kirkland, Washington, at a regular meeting thereof held this 16th day of October, 2001.

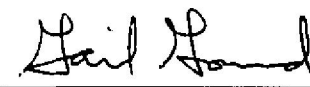
CITY OF KIRKLAND, WASHINGTON

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

Approved as to Form:

  
\_\_\_\_\_  
City Attorney

## CITY OF KIRKLAND

### Summary of Ordinance No. O-3801 passed October 16, 2001

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$1,785,000 TO FINANCE THE ACQUISITION OF A BUILDING IN DOWNTOWN KIRKLAND FOR CITY USE; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF SAID BONDS AND FOR TAX LEVIES TO PAY THE PRINCIPAL THEREOF AND INTEREST THEREON; AUTHORIZING A PRELIMINARY OFFICIAL STATEMENT; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SALE; AND APPROVING THE SALE OF SUCH BONDS.

Section 1 (Definitions) defines certain capitalized terms used in the Ordinance.

Section 2 (Authorization of Bonds and Bond Details) authorizes the City's Limited Tax General Obligation Bonds, 2001B" in the aggregate amount of \$1,785,000 (the "Bonds"), and provides details regarding maturity and interest.

Section 3 (Registration, Exchange and Payments) adopts a system of registration and exchange for the Bonds and describes the arrangements for paying principal of and interest on the Bonds.

Section 4 (Redemption Prior to Maturity and Purchase of Bonds) provides details regarding redemption of the Bonds prior to their scheduled maturity.

Section 5 (Form of Bonds) describes the form of the Bonds.

Section 6 (Execution of Bonds) authorizes procedures for execution and authentication of the Bonds.

Section 7 (Tax Covenants) covenants that the City will not cause interest on the Bonds to become taxable.

Section 8 (Creation of Bond Fund and Provision for Tax Levy Payments) creates the Bond Fund for the payment of debt service on the Bonds and provides for tax levies, if needed, as required to pay such debt service.

Section 9 (Application of Bond Proceeds) provides for the deposit of proceeds of the Bonds to the Bond Fund and the Project Fund.

Section 10 (Defeasance) provides conditions under which the Bonds may be defeased.

Section 11 (Sale of Bonds) authorizes the sale of the Bonds to the Underwriter pursuant to the purchase offer and deems final the preliminary Official Statement.

Section 12 (Undertaking to Provide Ongoing Disclosure) provides an undertaking for disclosure as required by the Securities and Exchange Commission.

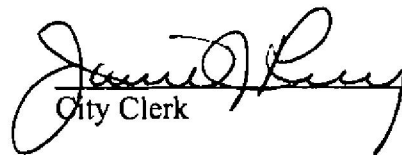
Section 13 (Lost, Stolen or Destroyed Bonds) makes provision in case Bonds are lost, stolen or destroyed.

Section 14 (Severability) provides that other covenants and agreements in the ordinance are not affected if one is made invalid.

The full text of Ordinance No. O-3801 will be mailed without cost to any party requesting it from:

Ms. Janice J. Perry  
City Clerk  
City of Kirkland  
123 Fifth Avenue  
Kirkland, WA 98033-6189  
Phone: (425) 828-1266  
Fax: (425) 828-1290

I certify that the foregoing is a summary of Ordinance 3801 approved by the Kirkland City Council for summary publication.

  
City Clerk