

CITY OF GIG HARBOR, WASHINGTON  
LIMITED TAX GENERAL OBLIGATION AND REFUNDING BONDS, 2010

ORDINANCE NO. 1190

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON, AUTHORIZING THE ISSUANCE AND SALE OF LIMITED TAX GENERAL OBLIGATION AND REFUNDING BONDS OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF \$7,730,000 TO PROVIDE FUNDS FOR THE ACQUISITION OF PROPERTY AND TO REFUND CERTAIN OUTSTANDING LIMITED TAX GENERAL OBLIGATION BONDS OF THE CITY; AUTHORIZING THE APPOINTMENT OF AN ESCROW AGENT AND THE EXECUTION OF AN ESCROW AGREEMENT; PROVIDING THE TERMS OF THE BONDS; APPROVING AN AGREEMENT FOR ONGOING DISCLOSURE; PROVIDING FOR THE ANNUAL LEVY OF TAXES TO PAY THE PRINCIPAL OF AND INTEREST ON THE BONDS; AND AUTHORIZING THE SALE OF BONDS.

PASSED: JUNE 14, 2010

Prepared by:

K&L GATES LLP  
Seattle, Washington

**CITY OF GIG HARBOR  
ORDINANCE NO. 1190  
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**EXHIBIT A Form of Escrow Agreement**

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\* This Table of Contents and the Cover Page are for convenience of reference and are not intended to be a part of this ordinance.

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WHEREAS, the City of Gig Harbor, Washington (the "City") desires to acquire property and make other capital improvements to the facilities of the City (collectively, the "Project"); and

WHEREAS, the City is authorized by chapters 35A.40 and 39.46 RCW to borrow money and issue general obligation bonds to finance the costs of the Project; and

WHEREAS, it is in the best interest of the City to issue limited tax general obligation bonds in the aggregate principal amount of \$1,175,000 (the "Improvement Bonds") in order to obtain long term financing for the Project; and

WHEREAS, the City issued its Limited Tax General Obligation Bonds, 2001 pursuant to Ordinance No. 885 under date of June 26, 2001, in the original aggregate principal amount of \$7,825,000 (the "2001 Bonds") which remain outstanding as follows:

Maturity Years (June 1)	Principal Amounts	Interest Rates
2011	\$285,000	4.55%
2012	300,000	4.65
2013	315,000	4.75
2014	330,000	4.80

2015	345,000	4.90
2016	365,000	4.95
2017	380,000	5.00
2018	400,000	5.05
2019	425,000	5.00
2020	445,000	5.10
2021	470,000	5.10
2022	495,000	5.15
2026	2,250,000	5.25

; and

WHEREAS, the 2001 Bonds maturing on and after June 1, 2012 (the “Refunded Bonds”) are callable for redemption at any time on or after June 1, 2011, at a price of par plus accrued interest to the date of redemption; and

WHEREAS, as a result of changed market conditions, it appears that debt service savings may be obtained by refunding the Refunded Bonds through the issuance of limited tax general obligation refunding bonds of the City in the aggregate principal amount of not to exceed \$6,555,000 (the “Refunding Bonds”); and

WHEREAS, it appears to this Council that it is in the best interest of the City that the Improvement Bonds and the Refunding Bonds be combined into a single issue of general obligation and refunding bonds in the aggregate principal amount of \$7,730,000(the “Bonds”); and

WHEREAS, the City has received an offer from D.A. Davidson & Co., Seattle, Washington, to purchase the Bonds;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GIG HARBOR DO  
ORDAIN, as follows:

**Section 1.      Definitions** The following words and terms as used in this ordinance shall have the following meanings for all purposes of this ordinance, unless some other meaning is plainly intended.

***Acquired Obligations*** means the Government Obligations acquired by the City under the terms of this ordinance and the Escrow Agreement to effect the defeasance and refunding of the Refunded Bonds.

***Beneficial Owner*** means any person that has or shares the power, directly or indirectly to make investment decisions concerning ownership of any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries).

***Bond Fund*** means the “Limited Tax General Obligation Bond Redemption Fund No. 208” established pursuant to Section 9 hereof.

***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.

***Bonds or Bond*** means all or a portion of the City of Gig Harbor, Washington, Limited Tax General Obligation and Refunding Bonds, 2010, issued pursuant to this ordinance, and shall include the Improvement Bonds and the Refunding Bonds.

***City*** means the City of Gig Harbor, a municipal corporation duly organized and existing under the laws of the State of Washington.

***City Representative*** means the Mayor, the City Administrator, the Finance Director or such other official or employee of the City designated in writing by any of the foregoing.

***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 of the City, the general legislative body 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 4 hereof.

**Escrow Agent** means U.S. Bank National Association, Seattle, Washington.

**Finance Director** means the duly qualified, appointed and acting Finance Director of the City or any other officer who succeeds to the duties now delegated to that office.

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

**Improvement Bonds** means that portion of the Bonds authorized to be issued herein for the purpose of financing the cost of the Project and paying related costs of issuance.

**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, if any.

**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 capital improvements described in Section 2 hereof.

**Project Fund** means the “Park Development Fund, No. 109” maintained as provided in Section 12 hereof.

**Refunded Bonds** means the 2001 Bonds maturing on and after June 1, 2012.

**Refunding Bonds** means that portion of the Bonds authorized to be issued herein for the purpose of refunding the Refunded Bonds and paying related costs of issuance.

**Registered Owner** means the person in whose name a Bond is registered on 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.

**Registrar** means, initially, the fiscal agency of the State of Washington 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.

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

**2001 Bond Ordinance** means Ordinance No. 885 of the Council.

**2001 Bonds** means the Limited Tax General Obligation Bonds, 2001, of the City issued under date of June 26, 2001, pursuant to the 2001 Bond Ordinance and presently outstanding in the principal amount of \$6,805,000.

**Underwriter** means D.A. Davidson & Co., Seattle, Washington.

**Interpretation.** In this ordinance, unless the context otherwise requires:

- (a) The terms "hereby," "hereof," "hereto," "herein, "hereunder" and any similar terms, as used in this ordinance, refer to this ordinance as a whole and not to any particular article, section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this ordinance;
- (b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;
- (c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;
- (d) Any headings preceding the text of the several articles and sections of this ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely

for convenience of reference and shall not constitute a part of this ordinance, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Authorization of the Project. The City intends to acquire property and make various capital improvements within the City (the “Project”). The City hereby confirms and ratifies the Project and finds that it is in the best interest of the City to issue the Improvement Bonds for the purpose of providing financing for the Project and paying allocable costs of issuance.

Section 3. Purpose, Authorization and Description of Bonds. For the purpose of paying the costs of the Project and paying a proportionate share of the costs of issuance, the City shall issue and sell its limited tax general obligation bonds in the aggregate principal amount of \$1,175,000 (the “Improvement Bonds”).

For the purpose of refunding the Refunded Bonds and paying a proportionate share of the costs of issuance related thereto, and thereby effecting a substantial savings to the City and its taxpayers, the City shall issue its limited tax general obligation refunding bonds in the aggregate principal amount of \$6,555,000 (the “Refunding Bonds”).

The Improvement Bonds and the Refunding Bonds are sometimes herein collectively referred to as the “Bonds.”

The City shall now issue and sell the Bonds in the combined aggregate amount of \$7,730,000. The Bonds shall be designated the “City of Gig Harbor, Washington Limited Tax General Obligation and Refunding Bonds, 2010” (the “Bonds”), shall be dated as of the date of their initial date of issuance and delivery, shall be fully registered as to both principal and

interest, shall be in the denomination of \$5,000 each or any integral multiple thereof, provided that no Bond shall represent more than one maturity, shall be numbered separately in such manner and with any additional designation as the Registrar deems necessary for purposes of identification and control, and shall bear interest from their date or the most recent date to which interest has been paid or duly provided for, whichever is later, payable semiannually on the first days of December and June, commencing December 1, 2010 to the maturity or earlier redemption of the Bonds, at the rates set forth below, and shall mature on June 1 in the years and in the amounts set forth below.

Maturity Year (June 1)	Principal Amount	Interest Rate
2011	\$ 100,000	3.00%
2011	30,000 -R	3.00
2012	105,000	3.00
2012	330,000 -R	3.00
2013	105,000	3.00
2013	340,000 -R	3.00
2014	110,000	3.00
2014	350,000 -R	3.00
2015	115,000	4.00
2015	360,000 -R	4.00
2016	120,000	4.00
2016	375,000 -R	4.00
2017	120,000	4.00
2017	390,000 -R	4.00
2018	125,000	4.00
2018	405,000 -R	4.00
2019	135,000	4.00
2019	425,000 -R	4.00
2020	140,000	4.50
2020	440,000 -R	4.50
2021	465,000 -R	4.50
2022	485,000 -R	4.50
2023	505,000 -R	4.50
2024	525,000 -R	4.50
2025	550,000 -R	4.50
2026	580,000 -R	4.50

“-R” Indicates Refunding Bonds

#### Section 4. Registration, Exchange and Payment.

(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 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 16 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 4(h) hereof, but such Bond may be transferred as herein provided. All such payments made as described in Section 4(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 has executed and delivered 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 the participants of any successor depository or those for who any such successor acts as nominee) 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.*

(1) 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 Designated Representative pursuant to subsection (2) below or such substitute depository's successor; or (C) to any person as provided in subsection (4) below.

(2) 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 Designated Representative to discontinue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the Designated Representative 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.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding Bonds, together with a written request of the Designated Representative, 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 Designated Representative.

(4) 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 Designated Representative 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 Designated Representative 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 of the Designated Representative 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, or upon the written request of a Registered Owner of more than \$1,000,000 of Bonds (received by the Bond Registrar at least 15 days prior to the applicable payment date), such payment shall be made by the Bond Registrar by wire transfer to the account within the United States designated by the Registered Owner. 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 5.      Redemption and Purchase of Bonds.

(a)     *Optional Redemption.* The Bonds maturing on and prior to June 1, 2020 are not subject to redemption prior to their scheduled maturities. The Bonds maturing on and after June 1, 2021 are subject to redemption at the option of the City in whole or in part on any date on or after June 1, 2020 (and if in part, with maturities to be selected by the City) at a price of par plus accrued interest, if any, to the date of redemption.

(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 Representative.

(c)     *Selection of Bonds for Redemption.* For as long as the Bonds are held in book-entry only form, the selection of particular Bonds within a maturity to be redeemed shall be made in accordance with the operational arrangements then in effect at DTC. If the Bonds are no longer held in uncertificated form, the selection of such Bonds to be redeemed and the surrender and reissuance thereof, as applicable, shall be made as provided in the following provisions of this subsection (d). If the City redeems at any one time fewer than all of the Bonds having the same maturity date, the particular Bonds or portions of Bonds of such maturity to be redeemed shall be selected by lot (or in such manner determined by the Bond Registrar) in increments of \$5,000. In the case of a Bond of a denomination greater than \$5,000, the City and the Bond Registrar shall treat each Bond as representing such number of separate Bonds each of the denomination of \$5,000 as is obtained by dividing the actual principal amount of such Bond by \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed, upon surrender of such Bond at the principal office of the Bond Registrar there shall be issued to the Registered Owner, without charge therefor, for the then unredeemed balance of the principal sum

thereof, at the option of the Registered Owner, a Bond or Bonds of like maturity and interest rate in any of the denominations herein authorized.

(e) *Notice of Redemption.*

(1) Official Notice. For so long as the Bonds are held in uncertificated form, notice of redemption (which notice may be conditional) shall be given in accordance with the operational arrangements of DTC as then in effect, and neither the City nor the Bond Registrar will provide any notice of redemption to any Beneficial Owners. Thereafter (if the Bonds are no longer held in uncertificated form), notice of redemption shall be given in the manner hereinafter provided. Unless waived by any owner of Bonds to be redeemed, official notice of any such redemption (which redemption may be conditioned by the Bond Registrar on the receipt of sufficient funds for redemption or otherwise) shall be given by the Bond Registrar on behalf of the City by mailing a copy of an official redemption notice by first class mail at least 20 days and not more than 60 days prior to the date fixed for redemption to the Registered Owner of the Bond or Bonds to be redeemed at the address shown on the Register or at such other address as is furnished in writing by such Registered Owner to the Bond Registrar.

All official notices of redemption shall be dated and shall state:

- (A) the redemption date,
- (B) the redemption price,
- (C) if fewer than all outstanding Bonds are to be redeemed, the identification by maturity (and, in the case of partial redemption, the respective principal amounts) of the Bonds to be redeemed,
- (D) that (unless the notice of redemption is a conditional notice, in which case the notice shall state that interest shall cease to accrue from the redemption date if

and to the extent that funds have been provided to the Bond Registrar for the redemption of Bonds) on the redemption date the redemption price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

(E) the place where such Bonds are to be surrendered for payment of the redemption price, which place of payment shall be the principal office of the Bond Registrar.

On or prior to any redemption date, the City shall deposit with the Bond Registrar an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date.

(2) Effect of Notice; Bonds Due. If an unconditional notice of redemption has been given as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Bond Registrar at the redemption price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. All Bonds which have been redeemed shall be canceled and destroyed by the Bond Registrar and shall not be reissued.

(3) Additional Notice. In addition to the foregoing notice, further notice shall be given by the City as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed. Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption

plus (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the Bonds as originally issued; (C) the rate of interest borne by each Bond being redeemed; (D) the maturity date of each Bond being redeemed; and (E) any other descriptive information needed to identify accurately the Bonds being redeemed. Each further notice of redemption may be sent at least 35 days before the redemption date to each party entitled to receive notice pursuant to Section 13, and to the Underwriter and with such additional information as the City shall deem appropriate, but such mailings shall not be a condition precedent to the redemption of such Bonds.

(4) CUSIP Number. Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(5) Amendment of Notice Provisions. The foregoing notice provisions of this Section 5, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes in order to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

Section 6. Form of Bonds. The Bonds shall be in substantially the following form:

UNITED STATES OF AMERICA

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

STATE OF WASHINGTON

CITY OF GIG HARBOR  
LIMITED TAX GENERAL OBLIGATION AND REFUNDING BOND, 2010

INTEREST RATE: %

MATURITY DATE:

CUSIP NO.:

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT:

THE CITY OF GIG HARBOR, 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 June 29, 2010, 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 December 1, 2010, and semiannually thereafter on the first days of each succeeding June and December. Both principal of and interest on this bond are payable in lawful money of the United States of America. The fiscal agency of the State of Washington has been appointed by the City as the authenticating agent, paying agent and registrar for the bonds of this issue (the "Bond Registrar"). For so long as the bonds of this issue are held in fully immobilized form, payments of principal and interest thereon shall be made as provided in accordance with the operational arrangements of The Depository Trust Company ("DTC") referred to in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the City to DTC.

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. 1190 duly passed by the City Council on June 14, 2010 (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 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 \$7,730,000 and is issued pursuant to the Bond Ordinance to finance capital improvements, to refund certain outstanding limited tax general obligation bonds of the City, and to pay costs of issuance.

The bonds of this issue are subject to redemption prior to their stated maturities as stated in the Bond Ordinance.

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 City has designated the bonds of this issue as “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 the issuance of this bond and the bonds of this issue does not violate any constitutional, statutory or other limitation upon the amount of bonded indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Gig Harbor, Washington has caused this bond to be signed with the facsimile or manual signature of the Mayor, to be attested by the facsimile or manual signature of the City Clerk, and the corporate seal of the City to be impressed, imprinted or otherwise reproduced hereon, all as of this 29th day of June, 2010.

## CITY OF GIG HARBOR, WASHINGTON

By \_\_\_\_\_ /s/ manual or facsimile  
Mayor

(SEAL)

ATTEST:

---

/s/ manual or facsimile

City Clerk

The Bond Registrar's Certificate of Authentication on the Bonds shall be in substantially the following form:

## CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_

This bond is one of the bonds described in the within mentioned Bond Ordinance and is one of the Limited Tax General Obligation and Refunding Bonds, 2010, of the City of Gig Harbor, Washington, dated as of June 29, 2010.

WASHINGTON STATE FISCAL AGENCY, as  
Registrar

By \_\_\_\_\_  
Authorized Signatory

Section 7. Execution and Delivery of Bonds. The Bonds shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk, and the seal of the City shall be impressed, imprinted or otherwise reproduced on the Bonds.

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 also be signed and attested on behalf of the City by such persons

who are at the actual date of delivery of such Bond 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 8.     Lost, 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 and the Bond Registrar 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 and/or the Bond Registrar with indemnity satisfactory to the City and the Bond Registrar.

Section 9.     Bond Fund. There is hereby created in the office of the City Representative a special fund to be drawn upon for the purpose of paying the principal of and interest on the Bonds to be known as the "Limited Tax General Obligation Bond Redemption Fund No. 208" (the "Bond Fund"). The taxes hereafter levied for the purpose of paying principal of and interest on the Bonds and other funds to be used to pay the Bonds shall be deposited in the Bond Fund no later than the date such funds are required for the payment of principal of and interest on the Bonds. Money in the Bond Fund not needed to pay the interest or principal next coming due may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City funds.

Section 10.     Pledge of Taxation and Credit. The City hereby irrevocably covenants and agrees for as long as any of the Bonds are outstanding and unpaid that each year it will include in its budget and levy an *ad valorem* tax upon all the property within the City subject to taxation in an amount that will be sufficient, together with all other revenues and money of the City legally available for such purposes, to pay the principal of and interest on the Bonds as the

same shall become due. All of such taxes so collected and any other money to be used for such purposes shall be paid into the Bond Fund.

The City hereby irrevocably pledges that the annual tax provided for herein to be levied for the payment of such principal and interest shall be within and as a part of the tax levy permitted to cities without a vote of the people, and that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the Bonds will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the Bonds. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the prompt payment of the principal of and interest on the Bonds as the same shall become due.

Section 11. 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 the Bond Fund or 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 each party entitled to receive notice in accordance with Section 16 of this ordinance.

**Section 12. Application of Bond Proceeds.**

(a) *Project Fund.* The City has heretofore established a fund designated the “Park Development Fund, No. 109” (the “Project Fund”) into which shall be deposited the proceeds of the Improvement Bonds. Money on hand in the Project Fund shall be used to pay the costs of or reimbursement for the costs of the Project. The City Representative may invest money in the Project Fund in legal investments for City funds. Earnings on such investments shall accrue to the benefit of the fund earning such interest. Any part of the proceeds of the Improvement Bonds remaining in the Project Fund after all costs of the Project have been paid (including costs of issuance, if any) may be used for any capital purpose of the City or may be transferred to the Bond Fund.

(b) *Refunding.* A portion of the proceeds of sale of the Refunding Bonds in the dollar amount certified by the City to the Escrow Agent shall be delivered to the Escrow Agent for the purpose of defeasing the Refunded Bonds and, if determined by the City Representative, paying costs of issuance for the Bonds.

Money received by the Escrow Agent from Bond proceeds and other money provided by the City shall be used immediately by the Escrow Agent upon receipt thereof in accordance with the terms of the Escrow Agreement to defease the Refunded Bonds as authorized by the 2001 Bond Ordinance, and to pay costs of issuance of the Bonds. The City shall defease the Refunded Bonds and discharge such obligations by the use of money deposited with the Escrow Agent to purchase certain Government Obligations (which obligations so purchased, are herein called

“Acquired Obligations”), bearing such interest and maturing as to principal and interest in such amounts and at such times which, together with any necessary beginning cash balance, will provide for the payment of each of the following bonds that have been designated as “Refunded Bonds”:

- (1) Interest on the Refunded Bonds coming due on each date on which interest is due and payable, to and including June 1, 2011; and
- (2) The redemption price (100% of par) of the Refunded Bonds is on June 1, 2011.

Such Acquired Obligations shall be purchased at a yield not greater than the yield permitted by the Code and regulations relating to acquired obligations in connection with refunding bond issues.

(c) *Escrow Agent/Escrow Agreement.* The City hereby appoints U.S. Bank National Association, as the Escrow Agent for the Refunded Bonds (the “Escrow Agent”). A beginning cash balance, if any, and Acquired Obligations shall be deposited irrevocably with the Escrow Agent in an amount sufficient to defease the Refunded Bonds. The proceeds of the Refunding Bonds after acquisition of the Acquired Obligations and provision for the necessary beginning cash balance shall be utilized to pay expenses of the acquisition and safekeeping of the Acquired Obligations and expenses of the issuance of the Refunding Bonds. The City Representative is authorized and directed to execute and deliver to the Escrow Agent an Escrow Deposit Agreement substantially in the form attached to this ordinance as Exhibit A, with such changes or modifications as the City Representative, with the advice of bond counsel to the City, consider necessary or advisable.

The City hereby irrevocably sets aside for and pledges to the payment of the Refunded Bonds the moneys and obligations to be deposited with the Escrow Agent pursuant to the Escrow Agreement to accomplish the plan of refunding and defeasance of the Refunded Bonds set forth herein and in the Escrow Agreement. When all of the Refunded Bonds shall have been redeemed and retired, the City may cause any remaining money to be transferred to the Bond Fund for the purposes set forth above.

Section 13.     Call For Redemption of Refunded Bonds and Escrow Agreement.

(a)     *Call For Redemption of the Refunded Bonds.* The City hereby irrevocably sets aside sufficient funds out of the purchase of Acquired Obligations from proceeds of the Refunding Bonds to make the payments described in Section 12 of this ordinance.

The City hereby irrevocably calls the Refunded Bonds for redemption on June 1, 2011 in accordance with terms of the 2001 Bond Ordinance authorizing the redemption and retirement of the Refunded Bonds prior to their fixed maturities.

Said defeasance and call for redemption of the Refunded Bonds shall be effective and irrevocable after the final establishment of the escrow account and delivery of the Acquired Obligations to the Escrow Agent.

The Escrow Agent is hereby authorized and directed to provide for the giving of notice of the redemption of the Refunded Bonds in accordance with the applicable provisions of the 2001 Bond Ordinance. The Finance Director is authorized and requested to provide whatever assistance is necessary to accomplish such redemption and the giving of notice therefor. The costs of publication of such notices shall be an expense of the City.

The Escrow Agent is hereby authorized and directed to pay to the fiscal agency or agencies of the State of Washington, sums sufficient to pay, when due, the payments specified in

Section 12(c) of this ordinance. All such sums shall be paid from the moneys and Acquired Obligations deposited with said Escrow Agent pursuant to the previous section of this ordinance, and the income there from and proceeds thereof. All moneys and Acquired Obligations deposited with said bank and any income there from shall be credited to a refunding account and held, invested (but only at the direction of the Finance Director) and applied in accordance with the provisions of this ordinance and with the laws of the State of Washington for the benefit of the City and owners of the Refunded Bonds.

The City will take such actions as are found necessary to see that all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds shall be paid when due.

(b) *Escrow Agreement.* The Finance Director is authorized and directed to execute and deliver to the Escrow Agent an Escrow Deposit Agreement substantially in the form attached to this ordinance as Exhibit A, with such changes or modifications as the Finance Director, with the advice of bond counsel to the City, consider necessary or advisable.

The City hereby irrevocably sets aside for and pledges to the payment of the Refunded Bonds the moneys and obligations to be deposited with the Escrow Agent pursuant to the Escrow Agreement to accomplish the plan of refunding and defeasance of the Refunded Bonds set forth herein and in the Escrow Agreement. When all of the Refunded Bonds shall have been redeemed and retired, the City may cause any remaining money to be transferred to the Bond Fund for the purposes set forth above.

Section 14. Tax Covenants; Special Designation. 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(s) 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.

(d) *Designation under Section 265(b).* The City hereby designates the Bonds as "qualified tax exempt obligations" for investment by financial institutions under Section 265(b) of the Code. The City does not anticipate that it will issue more than \$30,000,000 in qualified tax-exempt obligations during 2010 (excluding obligations permitted by the Code to be excluded for purposes of the City's qualification as a qualified small issuer).

Section 15. Sale of Bonds. The City hereby accepts the offer of D.A. Davidson & Co., Seattle, Washington (the "Underwriter"), to purchase the Bonds on the terms and conditions set forth in its purchase contract dated as of this date and presented to the Council on this date, and in this ordinance. The Mayor and/or the City Representative are hereby authorized to execute such purchase contract on behalf of the City. The proper City officials 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 use and application of the proceeds of such sale.

The City Representative is 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 June 3, 2010, is hereby deemed final within the meaning of SEC Rule 15c2-12. The proper City officials are hereby authorized and directed to do

everything necessary for the prompt execution and delivery of the Bonds to said Underwriter, in accordance with the purchase agreement, and for the proper application and use of the proceeds of sale thereof

**Section 16. Undertaking to Provide Ongoing Disclosure.**

(a) *Contract/Undertaking.* This section constitutes the City's written undertaking for the benefit of the owners, including Beneficial 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 the Municipal Securities Rulemaking Board ("MSRB"), the following annual financial information and operating data for the prior fiscal year (commencing in 2011 for the fiscal year ended December 31, 2010):

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 "Statement of General Fund Revenues and Expenditures";

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 the MSRB. In lieu of providing such annual financial information and operating data, the City may cross-reference to other documents available to the public on the MSRB's internet website.

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 the MSRB.

(c) *Material Events.* The City agrees to provide or cause to be provided, in a timely manner 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 34-238560);
- 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 or property secure payment of the Bonds.

(d) *Notification Upon Failure to Provide Financial Data.* The City agrees to provide or cause to be provided, in a timely manner, to the MSRB 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.

(e) *Emma; Format for Filings with the MSRB.* Until otherwise designated by the MSRB or the Commission, any information or notices submitted to the MSRB in compliance with the Rule are to be submitted through the MSRB's Electronic Municipal Market Access system ("EMMA"), currently located at [www.emma.msrb.org](http://www.emma.msrb.org) (which is not incorporated into this Official Statement by reference). All notices, financial information and operating data required by this undertaking to be provided to the MSRB must be in an electronic format as prescribed by the MSRB. All documents provided to the MSRB pursuant to this undertaking must be accompanied by identifying information as prescribed by the MSRB.

(f) *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 the MSRB 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, (A) notice of such change shall be given in the same manner as for a material event under Subsection (c), and (B) 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.

(g) *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.

(h) *No Default.* The City is not and has not been in default in the performance of its obligations of any prior undertaking for ongoing disclosure with respect to its obligations.

Section 17. General Authorization; Prior Acts. The Mayor, the City Administrator, and the Finance Director of the City and each of the other appropriate officers, agents and representatives of the City are each hereby authorized and directed to take such steps, to do such other acts and things, and to execute such letters, certificates, agreements, papers, financing statements, assignments or instruments as in their judgment may be necessary, appropriate or desirable to carry out the terms and provisions of, and complete the transactions contemplated by, this ordinance.

All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 19. Amendments.

(a) The Council from time to time and at any time may pass an ordinance or ordinances supplemental hereof, which ordinance or ordinances thereafter shall become a part of this ordinance, for any one or more or all of the following purposes:

(1) To add to the covenants and agreements of the City in this ordinance, other covenants and agreements thereafter to be observed, which shall not adversely affect the interests of the owners of any Bonds, or to surrender any right or power herein reserved.

(2) To make such provisions for the purpose of curing any ambiguities or of curing, correcting or supplementing any defective provision contained in this ordinance in regard to matters or questions arising under such ordinances as the Council may deem necessary or desirable and not inconsistent with such ordinances and which shall not adversely affect, in any material respect, the interest of the owners of Bonds. In any such supplemental ordinance

may be adopted without the consent of the owners of any Bonds at any time outstanding, notwithstanding any of the provisions of subsection (b) of this section.

(b) With the consent of the owners of not less than sixty-five percent (65%) in aggregate principal amount of the Bonds at the time outstanding, the Council may pass an ordinance or ordinances supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this ordinance or of any supplemental ordinance; provided, however, that no such supplemental ordinance shall:

(1) Extend the fixed maturity of any Bonds, or reduce the rate of interest thereon, or extend the time of payment of interest from their due date, or reduce the amount of the principal thereof, or reduce any premium payable on the redemption thereof, without the consent of the owner of each Bond so affected; or

(2) Reduce the aforesaid percentage of Bond owners required to approve any such supplemental ordinance, without the consent of the owners of all of the Bonds then outstanding.

It shall not be necessary for the consent of Bond owners under this subsection (b) to approve the particular form of any proposed supplemental ordinance, but it shall be sufficient if such consent shall approve the substance thereof. For the purpose of consenting to amendments under this subsection (b).

(c) Upon the adoption of any supplemental ordinance pursuant to the provisions of this Section, this ordinance shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations of the City under this ordinance and all owners of Bonds outstanding hereunder shall thereafter be determined, exercised and enforced thereunder, subject in all respects to such modifications and amendments,

and all terms and conditions of any such supplemental ordinance shall be deemed to be part of the terms and conditions of this ordinance for any and all purposes.

(d) Bonds executed and delivered after the execution of any supplemental ordinance passed pursuant to the provisions of this section may have a notation as to any matter provided for in such supplemental ordinance, and if such supplemental ordinance shall so provide, new Bonds so modified as to conform, in the opinion of the Council, to any modification of this ordinance contained in any such supplemental ordinance, may be prepared and delivered without cost to the owners of any affected Bonds then outstanding, upon surrender for cancellation of such Bonds in equal aggregate principal amounts.

(e) *Exclusion of Bonds Owned by City.* Bonds owned or held by or for the account of the City shall not be deemed outstanding for the purpose of any vote or consent or other action or any calculation of outstanding Bonds in this ordinance provided for, and shall not be entitled to vote or consent or take any other action in this ordinance provided for.

(f) *Bonds Held by Securities Repositories.* For so long as the Bonds are held in book entry only form, communications with the owners shall be made with the securities depository who is the “Registered Owner” of the Bonds and communications with (and obtaining consents from) beneficial owners shall be made in accordance with the operational procedures of the securities depository that is the “Registered Owner” of the Bonds.

**Section 20. 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.

Section 21. Effective Date. This ordinance shall become effective immediately upon its adoption.

PASSED by the Council of the City of Gig Harbor, Washington at a regular meeting held on the 14<sup>th</sup> day of June, 2010.

CITY OF GIG HARBOR, WASHINGTON

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Mayor

ATTEST:

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City Clerk

First Reading: May 5, 2010

Date Adopted: June 14, 2010

Date of Publication: \_\_\_\_\_, 2010

Effective Date: \_\_\_\_\_, 2010

## EXHIBIT A

### ESCROW DEPOSIT AGREEMENT

#### CITY OF GIG HARBOR, WASHINGTON LIMITED TAX GENERAL OBLIGATION AND REFUNDING BONDS, 2010

THIS ESCROW AGREEMENT, dated as of June \_\_\_, 2010 (herein, together with any amendments or supplements hereto, called the "Agreement") is entered into by and between the City of Gig Harbor, Washington (herein called the "City") and U.S. Bank National Association, Seattle, Washington as escrow agent (herein, together with any successor in such capacity, called the "Escrow Agent"). The notice addresses of the City and the Escrow Agent are shown on Exhibit A attached hereto and made a part hereof.

### WITNESSETH:

WHEREAS, the City heretofore has issued and there presently remain outstanding the obligations described in Exhibit B attached hereto (the "Refunded Bonds"); and

WHEREAS, pursuant to Ordinance No. 1190 adopted on May 24, 2010 (the "Bond Ordinance"), the City has determined to issue its Limited Tax General Obligation and Refunding Bonds, 2010 (the "Bonds"); and

WHEREAS, a portion of the proceeds of the Bonds are being used for the purpose of providing funds to pay the costs of refunding the Refunded Bonds; and

WHEREAS, Grant Thornton LLP has prepared a verification report which is dated June \_\_\_, 2010 (the "Verification Report") relating to the source and use of funds available to accomplish the refunding of the Refunded Bonds, the investment of such funds and the adequacy of such funds and investments to provide for the payment of the debt service due on the Refunded Bonds; and

WHEREAS, pursuant to the Bond Ordinance, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Exhibit C attached hereto and made a part hereof; and

WHEREAS, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

WHEREAS, the issuance, sale, and delivery of the Refunding Bonds have been duly authorized to be issued, sold, and delivered for the purpose of obtaining the funds required to provide for the payment of the principal of, interest on and redemption premium (if any) on the Refunded Bonds when due as shown on Exhibit C attached hereto;

NOW, THEREFORE, in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the City and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

## Article 1. Definitions

### Section 1.1. Definitions.

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

***Escrow Fund*** means the fund created by this Agreement to be established, held and administered by the Escrow Agent pursuant to the provisions of this Agreement.

***Escrowed Securities*** means the noncallable Government Obligations described in Exhibit D attached to this Agreement, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement.

***Government Obligations*** means direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

***Paying Agent*** means the fiscal agency of the State of Washington, as the paying agent for the Refunded Bonds.

***Refunding Bonds*** means that portion of the Bonds authorized under the Bond Ordinance for the purpose of refunding the Refunded Bonds.

### Section 1.2. Other Definitions.

The terms “Agreement,” “City,” “Escrow Agent,” “Bond Ordinance,” “Verification Report,” “Refunded Bonds,” and “Bonds” when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

### Section 1.3. Interpretations.

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the

intended purpose of providing for the refunding of the Refunded Bonds in accordance with applicable law.

## **Article 2. Deposit of Funds and Escrowed Securities**

### **Section 2.1. Deposits in the Escrow Fund.**

Concurrently with the sale and delivery of the Refunding Bonds the City shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds (from the proceeds of the Refunding Bonds and a cash contribution by the City) sufficient to purchase the Escrowed Securities and pay costs of issuance described in Exhibit D attached hereto, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the City in writing.

## **Article 3. Creation and Operation of Escrow Fund**

### **Section 3.1. Escrow Fund.**

The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Refunding Account (the "Escrow Fund"). The Escrow Agent hereby agrees that upon receipt thereof it will deposit to the credit of the Escrow Fund the funds and the Escrowed Securities described in Exhibit D attached hereto and pay Costs of Issuance as described in Exhibit D. Such deposit, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Escrow Fund, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Escrow Fund shall be transferred to the City, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

### **Section 3.2. Payment of Principal and Interest.**

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances from time to time on deposit in the Escrow Fund, the amounts required to pay the principal of the Refunded Bonds at their respective redemption dates and interest thereon to such redemption dates in the amounts and at the times shown in Exhibit C attached hereto.

### **Section 3.3. Sufficiency of Escrow Fund.**

The City represents that, based upon the information provided in the Verification Report, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity, all as more fully set forth in Exhibit E attached hereto. If, for any reason, at any time, the cash

balances on deposit or scheduled to be on deposit in the Escrow Fund shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2. hereof, the City shall timely deposit in the Escrow Fund, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Escrow Fund or the City's failure to make additional deposits thereto.

#### **Section 3.4. Trust Fund.**

The Escrow Agent or its affiliate, shall hold at all times the Escrow Fund, the Escrowed Securities and all other assets of the Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Escrow Fund to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Escrow Fund only as set forth herein. The Escrowed Securities and other assets of the Escrow Fund shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The owners of the Refunded Bonds shall be entitled to the same preferred claim and first lien upon the Escrowed Securities, the proceeds thereof, and all other assets of the Escrow Fund to which they are entitled as owners of the Refunded Bonds. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the City, and the Escrow Agent shall have no right to title with respect thereto except as a trustee and Escrow Agent under the terms of this Agreement. The amounts received by the Escrow Agent under this Agreement shall not be subject to warrants, drafts or checks drawn by the City or, except to the extent expressly herein provided, by the Paying Agent.

### **Article 4. Limitation on Investments**

#### **Section 4.1. Investments.**

Except for the initial investment in the Escrowed Securities, and except as provided in Section 4.2 hereof, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

#### **Section 4.2. Substitution of Securities.**

At the written request of the City, and upon compliance with the conditions hereinafter stated, the Escrow Agent shall utilize cash balances in the Escrow Fund, or sell, transfer, otherwise dispose of or request the redemption of the Escrowed Securities and apply the proceeds therefrom to purchase Refunded Bonds or Government Obligations which do not permit the redemption thereof at the option of the obligor. Any such transaction may be effected by the Escrow Agent only if (a) the Escrow Agent shall have received a written opinion from a firm of certified public accountants that such transaction will not cause the amount of money and securities in the Escrow Fund to be reduced below an amount sufficient to provide for the full and timely payment of principal of and interest on all of the remaining Refunded Bonds as they

become due, taking into account any optional redemption thereof exercised by the City in connection with such transaction; and (b) the Escrow Agent shall have received the unqualified written legal opinion of its bond counsel or tax counsel to the effect that such transaction will not cause any of the Refunding Bonds or Refunded Bonds to be an “arbitrage bond” within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended.

## **Article 5. Application of Cash Balances**

### **Section 5.1. In General.**

Except as provided in Section 2.1, 3.2 and 4.2 hereof, no withdrawals, transfers or reinvestment shall be made of cash balances in the Escrow Fund. Cash balances shall be held by the Escrow Agent in United States currency as cash balances as shown on the books and records of the Escrow Agent and, except as provided herein, shall not be reinvested by the Escrow Agent; provided, however, a conversion to currency shall not be required (i) for so long as the Escrow Agent's internal rate of return does not exceed 20%, or (ii) if the Escrow Agent's internal rate of return exceeds 20%, the Escrow Agent receives a letter of instructions, accompanied by the opinion of nationally recognized bond counsel, approving the assumed reinvestment of such proceeds at such higher yield.

## **Article 6. Redemption of Refunded Bonds**

### **Section 6.1. Call for Redemption.**

The City hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption dates, as shown in the Verification Report and on Appendix A attached hereto.

### **Section 6.2. Notice of Redemption/Notice of Defeasance.**

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds pursuant to the terms of the Refunded Bonds and in substantially the forms attached hereto as Appendices A-1 and A-2 attached hereto and as described on said Appendices A-1 and A-2 to the Paying Agent for distribution as described therein. The notice of defeasance shall be given immediately following the execution of this Agreement, and the notice of redemption shall be given in accordance with the ordinance authorizing the Refunded Bonds. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

## **Article 7. Records and Reports**

### **Section 7.1. Records.**

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Escrow Fund and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

## **Section 7.2. Reports.**

While this Agreement remains in effect, the Escrow Agent quarterly shall prepare and send to the City a written report summarizing all transactions relating to the Escrow Fund during the preceding financial quarter, including, without limitation, credits to the Escrow Fund as a result of interest payments on or maturities of the Escrowed Securities and transfers from the Escrow Fund for payments on the Refunded Bonds or otherwise, together with a detailed statement of all Escrowed Securities and the cash balance on deposit in the Escrow Fund as of the end of such period.

# **Article 8. Concerning the Paying Agents and Escrow Agent**

## **Section 8.1. Representations.**

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

## **Section 8.2. Limitation on Liability.**

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Escrow Fund. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Escrow Fund or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the City promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Refunding Bonds shall be taken as the statements of the City and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

The Escrow Agent is not a party to the proceedings authorizing the Refunding Bonds or the Refunded Bonds and is not responsible for nor bound by any of the provisions thereof (except to the extent that the Escrow Agent may be a place of payment and paying agent and/or a paying agent/registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow Agent makes no representations as to the value, conditions or sufficiency of the Escrow Fund, or any part thereof, or as to the title of the City thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own neglect or willful misconduct, nor for any loss unless the same shall have been through its negligence or bad faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the City with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Escrow Fund, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own willful misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the City or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the City at any time.

### **Section 8.3. Compensation.**

The City shall pay to the Escrow Agent fees for performing the services hereunder and for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement pursuant to the terms of the Fee Schedule attached hereto as Appendix B. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against the Escrow Fund for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

### **Section 8.4. Successor Escrow Agents.**

Any corporation, association or other entity into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or otherwise transfer all or substantially all of its corporate trust assets and business or any corporation, association or other entity resulting from any such conversion, sale, merger, consolidation or other transfer to which it is a party, *ipso facto*, shall be and become successor escrow agent hereunder, vested with all other matters as was its predecessor, without the execution or filing of any instrument or any further act on the part of the parties hereto, notwithstanding anything herein to the contrary.

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in

the office of Escrow Agent hereunder. In such event the City, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the City within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the City, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Washington, authorized under such laws to exercise corporate trust powers, having its principal office and place of business in the State of Washington, having a combined capital and surplus of at least \$50,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the City and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the City shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.4 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

## **Article 9. Miscellaneous**

### **Section 9.1. Notice.**

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the City or the Escrow Agent at the address shown on Exhibit A attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days prior notice thereof.

## **Section 9.2. Termination of Responsibilities.**

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the City, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

## **Section 9.3. Binding Agreement.**

This Agreement shall be binding upon the City and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the City, the Escrow Agent and their respective successors and legal representatives.

## **Section 9.4. Severability.**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

## **Section 9.5. Washington Law Governs.**

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

## **Section 9.6. Time of the Essence.**

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.

## **Section 9.7. Notice to Moody's and Standard & Poor's.**

In the event that this agreement or any provision thereof is severed, amended or revoked, the City shall provide written notice of such severance, amendment or revocation to Moody's Investors Service at 99 Church Street, New York, New York, 10007, Attention: Public Finance Rating Desk/ Refunded Bonds and to Standard & Poor's Ratings Group, 55 Water Street, New York, New York 10041, Attention: Municipal Bond Department.

### **Section 9.8. Amendments.**

This Agreement shall not be amended except to cure any ambiguity or formal defect or omission in this Agreement. No amendment shall be effective unless the same shall be in writing and signed by the parties thereto. No such amendment shall adversely affect the rights of the holders of the Refunded Bonds. No such amendment shall be made without first receiving written confirmation from the rating agencies (if any) which have rated the Refunded Bonds that such administrative changes will not result in a withdrawal or reduction of its rating then assigned to the Refunded Bonds. If this Agreement is amended, prior written notice and copies of the proposed changes shall be given to the rating agencies which have rated the Refunded Bonds.

EXECUTED as of the date first written above.

**CITY OF GIG HARBOR,  
WASHINGTON**

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David Rodenbach, Finance Director

**U.S. BANK NATIONAL ASSOCIATION**

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as Authorized Signer

Exhibit A	—	Addresses of the City and the Escrow Agent
Exhibit B	—	Description of the Refunded Bonds
Exhibit C	—	Schedule of Debt Service on Refunded Bonds
Exhibit D	—	Description of Beginning Cash Deposit (if any) and Escrowed Securities
Exhibit E	—	Escrow Fund Cash Flow
Appendix A	—	Notice of Redemption for the 2001 Bonds
Appendix B	—	Notice of Defeasance for the 2001 Bonds
Appendix C	—	Fee Schedule

**EXHIBIT A**  
**Addresses of the City and Escrow Agent**

City: City of Gig Harbor  
3510 Grandview Street  
Gig Harbor WA 98335-5136  
Attention: David Rodenbach, Finance Director

Escrow Agent: U.S. Bank National Association  
1420 5th Avenue, 7th Floor  
Seattle, WA 98101-4087  
Attention: Carolyn Morrison, Vice President

## **EXHIBIT B**

### **Description of the Refunded Bonds**

**City of Gig Harbor, Washington  
Limited Tax General Obligation Bonds, 2001**

Maturity Years (June 1)	Principal Amounts	Interest Rates
2012	\$300,000	4.65%
2013	315,000	4.75
2014	330,000	4.80
2015	345,000	4.90
2016	365,000	4.95
2017	380,000	5.00
2018	400,000	5.05
2019	425,000	5.00
2020	445,000	5.10
2021	470,000	5.10
2022	495,000	5.15
2026	2,250,000	5.25

**EXHIBIT C**  
**Schedule of Debt Service on the Refunded Bonds**

Date	Interest	Principal/ Redemption Price	Total
\$			\$
\$		\$	\$

**EXHIBIT D**  
**Escrow Deposit**

I. Cash \$\_\_\_\_

II. Other Obligations

<u>Description</u>	<u>Maturity Date</u>	<u>Principal Amount</u> \$	<u>Interest Rate</u> %	<u>Total Cost</u> \$
		\$		\$

III. Costs of Issuance

**EXHIBIT E**  
**Escrow Fund Cash Flow**

Date	Escrow Securities Principal	Cash Receipts	Cash Disbursement	Cash Balance
		\$		\$
	\$	\$	\$	

## APPENDIX A

### NOTICE OF REDEMPTION\*

#### **City of Gig Harbor, Washington Limited Tax General Obligation Bonds, 2001**

NOTICE IS HEREBY GIVEN that the City of Gig Harbor, Washington has called for redemption on June 1, 2011, its outstanding Limited Tax General Obligation Bonds, 2001 (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to June 1, 2011. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

The Bank of New York Mellon Worldwide Securities Processing 2001 Bryan Street, 9th Floor Dallas, TX 7520	-or-	Wells Fargo Bank, National Association Corporate Trust Department 14 <sup>th</sup> Floor 999 Third Avenue Seattle, WA 98104
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Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on June 1, 2011.

The following Bonds are being redeemed:

Maturity Years (June 1)	Principal Amounts	Interest Rates	CUSIP Nos.
2012	\$300,000	4.65%	375172CR2
2013	315,000	4.75	375172CS0
2014	330,000	4.80	375172CT8
2015	345,000	4.90	375172CU5
2016	365,000	4.95	375172CV3
2017	380,000	5.00	375172CW1
2018	400,000	5.05	375172CX9
2019	425,000	5.00	375172CY7
2020	445,000	5.10	375172CZ4
2021	470,000	5.10	375172DA8
2022	495,000	5.15	375172DB6
2026	2,250,000	5.25	375172DC4

\* This notice shall be given not more than 60 nor less than 30 days prior to June 1, 2011 by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed at least 35 days prior to June 1, 2011 to Banc of America Securities, The Depository Trust Company of New York, New York; Moody's Investors Service, New York, New York; AMBAC Insurance New York, NY and to the MSRB.

**By Order of the City of Gig Harbor, Washington**

**The Bank of New York Mellon, as Paying Agent**

Dated: \_\_\_\_\_.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.

## APPENDIX B

**Notice of Defeasance\***  
**City of Gig Harbor, Washington**  
**Limited Tax General Obligation Bonds, 2001**

NOTICE IS HEREBY GIVEN to the owners of that portion of the above-captioned bonds with respect to which, pursuant to an Escrow Agreement dated June \_\_\_, 2010, by and between City of Gig Harbor, Washington (the "City") and U.S. Bank National Association, Seattle, Washington (the "Escrow Agent"), the City has deposited into an escrow account, held by the Escrow Agent, cash and non-callable direct obligations of the United States of America, the principal of and interest on which, when due, will provide money sufficient to pay each year, to and including the respective maturity or redemption dates of such bonds so provided for, the principal thereof and interest thereon (the "Defeased Bonds"). Such Defeased Bonds are therefore deemed to be no longer outstanding pursuant to the provisions of Ordinance No. 885 of the City, authorizing the issuance of the Defeased Bonds, but will be paid by application of the assets of such escrow account.

The Defeased Bonds are described as follows:

**Limited Tax General Obligation Bonds, 2001 (Dated June 26, 2001)**

Maturity Years (December 1)	Principal Amounts	Interest Rates	CUSIP Nos.	Call Date (at 100%)
2012	\$300,000	4.65%	375172CR2	06/01/2011
2013	315,000	4.75	375172CS0	06/01/2011
2014	330,000	4.80	375172CT8	06/01/2011
2015	345,000	4.90	375172CU5	06/01/2011
2016	365,000	4.95	375172CV3	06/01/2011
2017	380,000	5.00	375172CW1	06/01/2011
2018	400,000	5.05	375172CX9	06/01/2011
2019	425,000	5.00	375172CY7	06/01/2011
2020	445,000	5.10	375172CZ4	06/01/2011
2021	470,000	5.10	375172DA8	06/01/2011
2022	495,000	5.15	375172DB6	06/01/2011
2026	2,250,000	5.25	375172DC4	06/01/2011

\* This notice shall be given immediately by first class mail to each registered owner of the Defeased Bonds. In addition notice shall be mailed to The Depository Trust Company of New York, New York; The Bank of New York Mellon, as Fiscal Agent; Moody's Investors Service, New York, New York; and AMBAC Insurance, New York, NY, and to the MSRB.

**APPENDIX C**  
Fee Schedule

Escrow Agent Fee: See Attached

## CERTIFICATE

I, the undersigned, City Clerk of the City of Gig Harbor, Washington (the "City") and keeper of the records of the City Council (the "Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. 1190 of the Council (the "Ordinance"), duly passed at a regular meeting thereof held on the 14th day of June, 2010.
2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the passage of the Ordinance; that all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, 2010.

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Molly Towslee, City Clerk