

**ORDINANCE NO. 170**

AN ORDINANCE of the Town of Gig Harbor, Washington, providing for the issuance and sale of water revenue bonds of the town in the principal amount of \$90,000 to pay part of the cost of acquiring, constructing and installing certain additions and improvements to the existing water system of the town as authorized by Ordinance No. 161; providing the date, form, terms and maturities of said bonds; providing and adopting certain covenants and protective features safeguarding the payment of the principal thereof and interest thereon; reserving the right in the town to issue additional water revenue bonds on a parity with such revenue bonds to be issued, for certain purposes and on compliance with certain conditions.

WHEREAS, Ordinance No. 161 of the Town of Gig Harbor, Washington (hereinafter called the "Town"), passed December 26, 1972, authorized the acquisition, construction and installation of certain additions and improvements to the existing water system of the Town, declared the estimated cost thereof to be, as near as may be, the sum of \$140,000, approximately \$50,000 of which would be borne by grants from the United States of America and the State of Washington, and other available funds of the Town, and further provided that the remaining balance of such cost would be provided by the issuance and sale of water revenue bonds of the Town in the principal amount of not to exceed \$90,000; and

WHEREAS, it is deemed necessary and advisable that the Town proceed with the acquisition, construction and installation of said additions and improvements, and to pay part of the cost thereof that it now issue and sell its water revenue bonds in the total principal amount of \$90,000; and

WHEREAS, the Town has heretofore entered into an agreement with the United States Department of Housing and Urban Development which has agreed to submit a proposal for the purchase of such water revenue bonds to be

issued;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Town of Gig Harbor, Washington, as follows:

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

a. The word "Town" shall mean the Town of Gig Harbor, a municipal corporation duly organized and existing under the laws of the State of Washington.

b. The word "system" shall mean the water supply and distribution system of the Town, as such system may be added to, improved and extended for as long as any of the Bonds and any Parity Bonds are outstanding, which additions, improvements and extensions may include the sanitary sewage disposal system of the Town should the same ever be combined with the water supply and distribution system of the Town in the manner authorized by law.

c. The word "Bonds" shall mean the \$90,000 principal amount of water revenue bonds of the Town issued pursuant to this ordinance.

d. The words "Revenue Fund" shall mean the special fund of the Town designated the Water Revenue Fund created by Section 14 of this ordinance.

e. The words "Construction Fund" shall mean the special fund of the Town known as the "Water Tank Construction Fund" created by Ordinance No. 164 of the Town.

f. The words "Bond Redemption Fund" shall mean the "Gig Harbor 1961 Water Revenue Bond Redemption Fund" created by Section 8 of Ordinance No. 59 of the Town.

g. The words "Gross Revenue" shall mean all rates, charges or other income and receipts in each case derived by or for the account of the Town arising from the operation or ownership of the System, and, after December 1, 1977, shall include all assessments, including interest and any penalties thereon, levied in any utility local improvement district of the Town, and pledged to and paid into the Bond Redemption Fund.

h. The word "Govern-

ment" shall mean the United States Department of Housing and Urban Development.

i. The words "Outstanding Bonds" shall mean the outstanding water revenue bonds of the Town issued under date of September 1, 1961.

j. The words "Term Bonds" mean the bonds of any issue or series payable out of the Bond Redemption Fund maturing in the last maturity year of such issue or series (regardless of reservation of prior redemptive rights) in an amount which is more than 1.25 times the average annual principal maturities of the bonds of such issue or series for the three calendar years immediately preceding such last maturity year.

k. The words "Parity Bonds" shall mean any revenue bonds of the Town issued after the date of the issuance of the Bonds and having a lien upon the Gross Revenue and the money in the Revenue Fund for the payment of the principal thereof and interest thereon equal to the lien upon the Gross Revenue and the money in such fund for the payment of the principal of and interest on the Bonds and the Outstanding Bonds.

Section 2. The Town shall complete the acquisition, construction and installation of those additions and improvements to the System authorized by its Ordinance No. 161.

Section 3. For the purpose of providing part of the money required to acquire, construct and install those certain additions and improvements to the System as provided in Ordinance No. 161, the Town hereby authorizes the issuance of the Bonds in the total principal amount of \$90,000. It is hereby found and declared that the final maturity of the Bonds does not extend beyond the reasonable life expectancy of the System.

Section 4. The Bonds shall be dated November 1, 1973, shall be in the denomination of \$1,000 each, shall be payable to bearer and shall be numbered and mature on December 1 in order of their number as follows:

Bond Nos.	Maturity Year	Amount
1-5	1978	\$5,000
6-11	1979	6,000
12-17	1980	6,000 79,000
18-23	1981	6,000 73,000
24-30	1982	7,000 67,000
31-37	1983	7,000 60,000
38-45	1984	8,000 53,000
46-53	1985	8,000 45,000
54-62	1986	9,000 37,000
63-71	1987	9,000
72-80	1988	9,000
81-90	1989	10,000

The Bonds shall bear interest at a rate of not to exceed 5-5/8% per annum payable semiannually on the first days of June and December of each year, commencing June 1, 1974, as evidenced by interest coupons attached to the Bonds.

Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America by the Town Treasurer at his office or, at the option of the holder, at the main office of the Peninsula State Bank, Gig Harbor, Washington, and shall be obligations only of the Bond Redemption Fund.

Section 5. The Bonds shall be registrable as to principal only. As long as any of the Bonds shall remain outstanding the Town shall maintain at the office of the Town Treasurer books for registration and transfer of the Bonds. No transfer of any Bond so registered shall be valid unless made on said books at the request of the registered owner or his duly authorized agent in writing, and similarly noted on such Bond.

Section 6. The Bonds shall be signed on behalf of the Town by the Mayor and shall be attested by the Town Clerk. Each of the Bonds shall have the seal of the Town impressed thereon.

Section 7. The Town reserves the right to redeem Bonds outstanding, in whole, or in part in inverse numerical order, on any interest payment date after January 1, 1978, at the principal amount thereof plus accrued interest to the date of redemption and plus a premium for each Bond as follows: 2-1/2% if redeemed June 1, 1978 through December 1, 1978, inclusive; 2% if redeemed June 1, 1979 through December 1, 1979,

inclusive; 1 1/2% if redeemed June 1, 1982 through December 1, 1980, inclusive; 1% if redeemed June 1, 1981 through December 1, 1981, inclusive; 1/2% if redeemed June 1, 1982 through December 1, 1982, inclusive; 0% if redeemed June 1, 1983, or thereafter.

The agreement of the Town with the Government relative to the sale of the Bonds provides that if and as long as the Government owns any of the Bonds the Government has waived and will waive the noncallable provisions, redemption premiums and publication of notice of call applicable to such Bonds so owned.

The Town further reserves the right whenever it has any surplus money in its Revenue Fund over and above all amounts therein pledged by the Town to be used for any specific purpose to use such surplus at any time (subject to the provisions of Section 22) to purchase any of the Bonds in the open market for retirement only if the same may be purchased at not more than the price at which they could be redeemed on the next succeeding redemption date.

Section 8. Notice of any such intended redemption shall be given by registered mail sent to the registered owners of the Bonds to be redeemed at their addresses appearing on the registry book at least thirty days prior to the redemption date and, unless all of the Bonds to be redeemed are registered Bonds, by publication once in a financial journal of general circulation in the City of Seattle, Washington, such publication to be not more than forty-five nor less than thirty days prior to said redemption date. The redemption notice shall state the serial numbers of the Bonds called for redemption and that interest thereon will cease on the redemption date, and shall direct that such Bonds, together with all coupons, if any, maturing on or after the redemption date, shall be presented by the holders for payment and cancellation at the office of the Town Treasurer, Gig Harbor, Washington.

Section 9. The Bonds and the certificate of registration

to be endorsed thereon shall be in substantially the following form:

# UNITED STATES OF AMERICA

NO. \$1,000  
STATE OF WASHINGTON  
TOWN OF GIG HARBOR  
WATER REVENUE BOND

The Town of Gig Harbor, a municipal corporation of the State of Washington (hereinafter called the "Town"), hereby acknowledges itself to owe and for value received promises to pay to bearer, or, if this bond be registered, to the registered owner hereof on the first day of December, , the principal sum of

ONE THOUSAND DOLLARS together with interest thereon at the rate of % per annum payable on the first days of June and December of each year from the date hereof upon presentation and surrender of the attached interest coupons as they severally become due or until the principal amount hereof has been paid.

Both principal of and interest on this bond are payable in lawful money of the United States of America solely out of the special fund of the Town known as the "Gig Harbor 1961 Water Revenue Bond Redemption Fund" created by Ordinance No. 59 of the Town.

Said payments shall be made at the office of the Treasurer of the Town of Gig Harbor, Gig Harbor, Washington or, at the option of the holder, at the Peninsula State Bank, Gig Harbor, Washington.

The Town has reserved the right to redeem any or all of the bonds of this issue outstanding, in whole, or in part in inverse numerical order, on any interest payment date after January 1, 1978, at the principal amount thereof plus accrued interest to the date of redemption and plus a premium for each Bond as follows: 2-1/2% if redeemed June 1, 1978 through December 1, 1978, inclusive; 2% if redeemed June 1, 1979 through December 1, 1979, inclusive; 1-1/2% if redeemed June 1, 1980 through December 1, 1980, inclusive; 1% if redeemed June 1, 1981 through December 1, 1981, inclusive; 1/2% if redeemed

June 1, 1982 through December 1, 1982, inclusive; 0 % if redeemed by June 1, 1983, or thereafter provided, however, that as long as the United States Department of Housing and Urban Development owns any of the bonds of this issue, said Department has waived the noncallable provisions, redemption provisions and publication of notice of call relating to the bonds so owned.

This bond is one of an issue of water revenue bonds of the Town of like amount, date and tenor except as to the number and date of maturity in the aggregate principal amount of \$90,000, which bonds are issued for the purpose of providing funds to pay part of the cost of acquiring, constructing and installing certain additions and improvements to the water system of the Town, is payable solely out of the gross revenue of such system and all additions and improvements thereto and extensions thereof, and does not constitute a general obligation of the Town.

The Town hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all the covenants of this bond and of Ordinance No. (the "Ordinance") to be by it kept and performed.

The Town has pledged and bound itself to set aside from the gross revenue of its water system and all additions and improvements thereto and extensions thereof, and to pay into said Bond Redemption Fund and the Reserve Account therein, the various amounts required by the Ordinance to be paid into and maintained in said Fund and Account, all within the times provided in said ordinance.

Said amounts so pledged to be paid into said fund and Account are hereby declared to be a prior lien and charge upon such gross revenue superior to all other charges of any kind or nature except for necessary costs of maintenance and operation of such water system and equal in rank to the lien and charge thereupon to pay and secure the payment of the outstanding water revenue bonds of the Town issued under date

of September 1 1961, and to any charge which may hereafter be made thereon to pay and secure the payment of any bonds which may later be issued on a parity with such 1961 bonds and the bonds of this issue.

The Town has further bound itself to maintain said system in good condition and repair, to operate the same in an efficient manner and at a reasonable cost, and to establish, maintain and collect rates and charges for water service furnished for as long as any of the bonds of this issue are outstanding that will, together with any assessments paid into said Bond Redemption Fund, provide revenue equal to at least 1.35 times the amounts required each calendar year hereafter to pay and secure the payment of the principal of and interest on such 1961 bonds, the bonds of this issue and any bonds later issued on a parity therewith, (exclusive, after December 1, 1977, of the principal amount of any Term Bonds, as such term is defined in the Ordinance), after necessary costs of maintenance and operation of such system have been paid, but before depreciation.

It is hereby certified and declared that this bond and the bonds of this issue are issued pursuant to and in strict compliance with the Constitution and laws of the State of Washington and ordinances of the Town, and that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed.

IN WITNESS WHEREOF, the Town of Gig Harbor, Washington, has caused this bond to be signed by its Mayor, to be attested by its Clerk, and the corporate seal of the Town to be impressed hereon, this 1st day of November, 1973.

TOWN OF GIG HARBOR, WASHINGTON  
By

Mayor

ATTEST:

Town Clerk

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

NO. \$

On the first day of 19 , the Town of Gig Harbor, Washington will pay to bearer at the office of the Town Treasurer in Gig Harbor or, at the option of the holder, at the Peninsula State Bank in Gig Harbor, Washington, the sum shown hereon in lawful money of the United States of America, solely out of the special fund of the Town known as the "Gig Harbor 1961 Water Revenue Bond Redemption Fund," said sum being the semiannual interest due that day on its water revenue bond dated November 1, 1973, numbered

TOWN OF GIG HARBOR, WASHINGTON  
by

Mayor

ATTEST:

Town Clerk

The Bonds shall have endorsed thereon the following registration certificate:

#### REGISTRATION CERTIFICATE

This bond may be registered as to the principal only on the bond registry book of the Town maintained at the office of the Town Treasurer, Gig Harbor, Washington, such registration to be noted hereon, and thereafter the principal of this bond shall be payable only to the registered holder, his legal representative or assigns.

This bond, if registered, shall be transferable to another registered holder or back to bearer only upon presentation to said Treasurer. If this bond is to be transferred, it must, upon such presentation, be accompanied by a legal assignment duly acknowledged or proved.

Registration of this bond shall not affect the negotiability of the coupons attached hereto, which shall at all times be transferable by delivery.

Date of  
Registration

Name and Address of  
Registered Holder

Signature of  
Registrar

Section 10. The purchaser of the Bonds may elect to accept a nonnegotiable bond registered as to both principal

and interest with a face value in the amount of the Bonds, in lieu of individual bonds. Any such fully registered bond shall be executed in the manner provided for the Bonds and shall be of type composition and on paper of sufficient weight and strength to prevent deterioration throughout the life of the loan represented by such fully registered bond.

Such fully registered bond shall be dated November 1, 1973, shall bear interest at the rate specified for the Bonds, shall mature in installments in the years and amounts set forth in Section 4 of this ordinance, and shall be in substantially the following form, with such variations, omissions and insertions as may be necessary under the circumstances:

UNITED STATES  
OF AMERICA  
NO. R-1 \$90,000  
STATE OF WASHINGTON  
TOWN OF GIG HARBOR  
WATER REVENUE BOND,  
1973

The Town of Gig Harbor, Washington (hereinafter called the "Town"), acknowledges itself indebted and for value received promises to pay to the Secretary of the Department of Housing and Urban Development, United States of America, or its successor (herein sometimes called the "Payee"), or its registered assigns (herein sometimes called the "Alternate Payee"), the principal sum of NINETY THOUSAND

DOLLARS  
in the following installments  
on December 1 of each of the  
following years.

Maturity Year	Amount
1978	\$5,000
1979	6,000
1980	6,000
1981	6,000
1982	7,000
1983	7,000
1984	8,000
1985	8,000
1986	9,000
1987	9,000
1988	9,000
1989	10,000

in any coin or currency which is legally acceptable on the respective dates of payments for debts due the United States of America and to pay interest on the balance of said principal from time to

time remaining unpaid in like coin or currency at the rate of % per annum payable semiannually on the first days of June and December of each year from date hereof until the principal amount hereof has been paid or such payment has been duly provided for.

So long as the Payee is the registered owner of this bond, payments of principal and interest shall be made by the Town Treasurer directly to the Federal Reserve Bank of Richmond, Richmond, Virginia, or such other fiscal agent as the Payee shall designate. So long as an Alternate Payee is the registered owner hereof, said payments shall be made at the office of the Town Treasurer, Gig Harbor, Washington, or, at the option of the holder, at the Peninsula State Bank, Gig Harbor, Washington.

Payments of principal and interest, including prepayments of installments of principal as hereinafter provided, shall be noted on the Payment Record made a part of this bond. Upon final payment of the principal and interest, this bond shall be submitted to the Town for cancellation and surrender.

Both principal of and interest on this bond are payable solely out of the special fund of the Town known as the "Gig Harbor 1961 Water Revenue Bond Redemption Fund" created by Ordinance No. 59 of the Town.

In addition to the installments of principal required to be paid by the Town as hereinabove set forth, the Town at its option, shall have the right to prepay any or all unpaid installments on June 1, 1978, or on any interest payment date thereafter, in multiples of \$1,000, in the inverse chronological order of such installments, at the following prices expressed as a percentage of the principal amount to be prepaid, plus accrued interest to the date of prepayment: 2- $\frac{1}{2}$ % if redeemed June 1, 1978 through December 1, 1978, inclusive; 2% if redeemed June 1, 1979 through December 1, 1979, inclusive; 1- $\frac{1}{2}$ % if redeemed June 1, 1980 through December 1,

1980, inclusive; 1% if redeemed June 1, 1981 through December 1, 1981, inclusive;  $\frac{1}{2}$ % if redeemed June 1, 1982 through December 1, 1982, inclusive; 0% if redeemed June 1, 1983, or thereafter.

Notice of any such optional prepayment shall be given at least thirty days prior to the prepayment date by mailing to the registered owner of this bond a notice fixing such prepayment date, and the amount of the principal to be prepaid.

As provided in Ordinance No. of the Town (herein called the "Ordinance"), this bond is exchangeable, at the sole expense of the Town, at any time upon ninety days notice at the request of the registered owner thereof, and upon surrender of this bond to the Town for definitive bonds payable to bearer, registrable as to principal only, of the denomination of \$1,000 each, bearing interest at the same rate as this bond, with the same rights of redemption as provided for definitive bonds in Section 7 of the Ordinance, in an aggregate principal amount equal to the unpaid principal amount of this bond and in the form of such coupon bonds as provided for in Section 9 of the Ordinance.

This bond is issued for the purpose of providing funds to pay part of the cost of acquiring, constructing and installing certain additions and improvements to the water system of the Town, (The "System" as defined in the Ordinance) is payable solely out of the gross revenue of such System and all additions and improvements thereto and extensions thereof, and does not constitute a general indebtedness of the Town.

The Town hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all the covenants of this bond and of the Ordinance to be by it kept and performed.

The Town has pledged and bound itself to set aside from the gross revenue of its System and all additions and improvements thereto and extensions thereof, and pay into said Bond Redemption Fund and the Reserve Ac-

count therein, the various amounts required by the Ordinance to be paid into and maintained in said Fund and Account, all within the times provided in the Ordinance.

Said amounts so pledged to be paid into said Fund and Account are hereby declared to be a prior lien and charge upon such gross revenue superior to all other charges of any kind or nature except for the necessary expenses of maintenance and operation of such System and equal in rank to the lien and charge thereon to pay and secure the payment of the principal of and interest on the outstanding water revenue bonds of the Town issued under date of September 1, 1961, and to any lien and charge which may hereafter be made thereon to pay and secure the payment of any bonds later issued on a parity with such 1961 bonds and the bonds of this issue.

The Town has further bound itself to maintain said System in good condition and repair, to operate the same in an efficient manner and at a reasonable cost, and to establish, maintain and collect rates and charges for service of the System furnished for as long as any of the bonds of this issue are outstanding that will, together with all assessments paid into said Bond Redemption Fund, provide revenue equal to at least 1.35 times the amounts required each calendar year hereafter to pay and secure the payment of the principal of and interest on the 1961 bonds, the bonds of this issue and any bonds later issued on a parity therewith, (exclusive, after December 1, 1977, of any Term Bonds, as such term is defined in the Ordinance), after necessary costs of maintenance and operation of such System have been paid, but before depreciation.

Reference is made to the Ordinance for a complete statement of all terms and conditions affecting this bond.

This bond may be assigned, and upon such assignment the assignor shall promptly notify the Town Treasurer by registered mail. The Town may require presentation of this bond for verification of the Payment Record, or, at its option, for

exchange for a new fully registered bond.

It is hereby certified that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed, and that the total indebtedness of the Town including this bond does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the Town of Gig Harbor, Washington, has caused this bond to be signed on behalf of the Town by its Mayor, to be attested by the Town Clerk, and the seal of the Town to be impressed hereon, as of the 1st day of November, 1973.

TOWN OF GIG HARBOR, WASHINGTON  
By

Mayor

ATTEST:

Town Clerk

A fully registered bond shall have endorsed thereon the following form of assignment:

#### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner thereof hereby sells, assigns and transfers the within bond unto

#### DATED

In the presence of:

#### ASSIGNMENT

FOR VALUE RECEIVED, the undersigned registered owner thereof hereby sells, assigns and transfers the within bond unto

#### DATED

In the presence of:

(Repeat this form of assignment)

As provided in the within bond, notice of any assignment thereof shall be given by the assignor by registered mail to the Town Treasurer, Gig Harbor, Washington, and upon the receipt of such notice the bond shall be registered as to both principal and interest on the registration books of the Town in the name of the assignee named above, but the Town shall have the right to require surrender of said bond for the verification of the Payment Record, or, at the option of the Town, in exchange for a new fully registered bond.

#### PAYMENT RECORD

Due Date

Principal Payment

Principal Balance Due

Interest Payment

Date Paid

Name of Paying  
Agent, Authorized Official  
and Title

(enter amounts)

(enter dates

for principal

and interest)

(leave blank)

(blank)

(blank)

( due dates—leave one-half inch space between each due date, etc., for manual interlining, if necessary; also half a page at the end for any explanation which might be required)

Section 11. Any fully registered bond shall be redeemable, in whole or in part, to the extent, at the time, in the manner and at the prices set forth in Sections 7 and 8 hereof.

Any fully registered bond may also be transferred by the registered owner thereof, provided that such transfer relates to the entire principal amount of the fully registered bond transferred, and any such transfer shall be noted on the bond registration book of the Town.

Upon ninety days written notice by the holder of any fully registered bond, the Town shall cause to be prepared and shall deliver to such holder, at its sole cost and expense, definitive coupon bonds of type composition and on bond paper of weight and strength that is customarily used for serial bonds of an issue comparable to this issue of Bonds.

Such definitive bonds shall be in the denomination of \$1,000 each, shall be in the total principal sum of the unpaid balance due on such fully registered bond, shall be numbered and mature as provided in Section 4 hereof on those dates of maturity which have not yet occurred on the date of such exchange, except that if any prepayment authorized herein shall have been effected, such prepayment shall be deemed to have redeemed such definitive bonds in inverse numerical order. Such

definitive bonds shall be executed and authenticated as herein provided for the Bonds.

Section 12. The Bonds, together with the interest thereon, shall be payable from the Gross Revenue of the System (all of which Gross Revenue must be paid into the Revenue Fund), and that portion of said revenue which is sufficient and necessary to pay the principal of and interest on the Bonds as the same shall become due is hereby pledged and set aside out of the Revenue Fund into the Bond Redemption Fund.

Said amounts so pledged are hereby declared to be a prior lien and charge upon such Gross Revenue and the money in the Revenue Fund superior to all other charges of any kind or nature except for necessary costs of maintenance and operation of the System and equal in rank to the lien and charge thereon to pay and secure the payment of the principal of and interest on the Outstanding Bonds and to any lien and charge which may hereafter be made thereon to pay and secure the payment of any Parity Bonds.

Section 13. The "Water Tank Construction Fund" (hereinafter defined as the "Construction Fund") has heretofore been established by Ordinance No. 161 of the Town. The proceeds of sale of the Bonds (except for accrued interest, if any, which shall be paid into the Bond Redemption Fund) and all moneys received from the Government and the State of Washington to pay part of the cost of the improvements authorized by Ordinance No. 161 shall be deposited in the Construction Fund. Withdrawals from such Construction Fund shall be made only on warrants of the Town as authorized from time to time by the Town Council and only for the purposes for which the Bonds are issued. Interest earned on Construction Fund moneys shall be deposited in the Construction Fund.

The Town's share of any liquidated damages and any moneys paid by defaulting contractors or their sureties shall be deposited in the Construction Fund to assure

completion of all of the additions and improvements to the System to be made. When the acquisition, construction and installation of the facilities authorized by Ordinance No. 161 have been completed and all construction costs and costs incidental thereto and to the issuance of the Bonds have been paid in full, and after any refunds have been made to the Government of grant funds for the Project under the Water and Sewer Grant Program, any balance remaining in the Construction Fund shall be promptly used to call and redeem outstanding Bonds (to the extent any Bonds are held by the Government) and the residue shall be transferred to the Bond Redemption Fund.

Section 14. There is hereby created another special Fund of the Town to be known as the "Water Revenue Fund" (hereinafter defined as the "Revenue Fund"). All Rentals, charges, income and revenues arising from the operation or ownership of the System shall be deposited to the credit of the Revenue Fund and held in the custody of the Town Treasurer separate and apart from all other funds of the Town. The Revenue Fund shall be maintained for as long as any of the Bonds and any Parity Bonds are outstanding in a bank which is a member of the Federal Deposit Insurance Corporation, and shall be expended and used by the Treasurer only in the manner and order hereinafter specified in the following Sections 15 to 18 inclusive.

Section 15. Necessary costs of maintenance and operation of the System shall be payable as a first charge from the Revenue Fund as the same become due and payable. Such costs shall include all necessary operating expenses, current maintenance charges, expenses of reasonable upkeep and repairs, a properly allocated share of charges for insurance, and all other expenses incident to the operation of the System, but shall exclude depreciation, all general administrative expenses of the Town not attributable to the System, and payments for debt service on

obligations of the Town having a lien and charge on the Gross Revenue junior to that of the Bonds.

Section 16. There has heretofore been created another special fund of the Town known as the "Gig Harbor 1961 Water Revenue Bond Redemption Fund" (herein called the "Bond Redemption Fund"), which Fund is to be drawn upon for the sole purpose of paying the principal of and interest on the Outstanding Bonds, the Bonds and any Parity Bonds as the same shall become due.

The Town hereby obligates and binds itself to set aside and pay into the Bond Redemption Fund out of the Gross Revenue the following fixed amounts necessary to pay the principal of and interest on the Bonds as the same respectively become due and payable. Such payments shall be made into the Bond Redemption Fund on or before the 20th day of each month in the amounts hereinafter specified:

(a) Beginning with the month of November, 1973, and continuing through May, 1974, an amount equal to at least one-seventh ( $1/7$ ) of the interest to become due and payable on June 1, 1974, on all Bonds outstanding.

(b) Beginning with the month of June, 1974, and continuing as long as any of the Bonds are outstanding and unpaid, an amount equal to at least one-sixth ( $1/6$ ) of the interest to become due and payable on the next interest payment date on all the Bonds then outstanding.

(c) Beginning with the month of December, 1977, and continuing as long as any of the Bonds are outstanding and unpaid, an amount equal to at least one-twelfth ( $1/12$ ) of the principal of the Bonds to become due and payable on the next principal payment date.

Said amounts so pledged to be paid out of the Gross Revenue and into the Bond Redemption Fund and the Reserve Account hereinafter created therein are hereby declared to be a prior lien and charge upon such Gross Revenue superior to all other charges of any kind or nature except the necessary cost of maintenance and operation of

the System, and equal in rank to the lien and charge thereon to pay and secure the payment of the principal of and interest on the Outstanding Bonds and to any charges which may be later made on such Gross Revenue to pay and secure the payment of the principal of and interest on any Parity Bonds.

Section 17. A Reserve Account has heretofore been created in the Bond Redemption Fund. The Town hereby covenants and agrees that commencing with the month of November, 1973, it will set aside and pay into the Reserve Account out of the Gross Revenues and out of any other money which it may now or later have on hand and available for such purpose the sum of at least \$168.00 per month until the sum of \$11,000 has been paid therein.

The Town further covenants and agrees that in the event it issues any Parity Bonds it will provide in each ordinance authorizing the issuance of the same that periodic payments will be made at least annually in approximately equal amounts into the Reserve Account out of the Gross Revenue within five years from the date of the issuance of such Parity Bonds, in an amount which, with the money already on deposit in the Reserve Account, will make a total at least equal to the next year's debt service on all outstanding bonds payable out of the Bond Redemption Fund and will further provide in each such ordinance that additional payments will be made out of the Gross Revenue into the Reserve Account if necessary so that there shall be on deposit therein at all times after each said five-year period an amount at least equal to the maximum annual debt service on all bonds payable out of such Bond Redemption Fund.

The Town further covenants and agrees that when said required amounts have been deposited in the Reserve Account, it will at all times maintain those amounts therein until there is a sufficient amount in the Bond Redemption Fund and Reserve Account to pay the

principal of, premium, if any, and interest on all outstanding bonds payable out of the Bond Redemption Fund, at which time the money in the Reserve Account may be used to pay such principal, premium, if any, and interest, provided, however, that moneys in the Reserve Account may be withdrawn to pay the principal, premium, if any, and interest on all of the outstanding bonds of any single issue or series payable out of the Bond Redemption Fund, so long as the moneys left remaining on deposit in the Reserve Account are at least equal to the next succeeding year's debt service on all of the remaining bonds payable out of the Bond Redemption Fund.

In the event there shall be a deficiency in the Bond Redemption Fund to meet maturing installments of either interest on or principal of and interest on the Outstanding Bonds, the Bonds or on any Parity Bonds, such deficiency shall be made up from the Reserve Account by the withdrawal of cash therefrom. Any deficiency created in the Reserve Account by reason of any such withdrawal shall then be made up from the Gross Revenue first available therefor.

All moneys in the Reserve Account above provided for shall be kept in cash or invested in direct obligations of the United States Government, or obligations unconditionally guaranteed by the United States Government, having a guaranteed redemption price prior to maturity or maturing not later than ten years from date of purchase, and in no event maturing later than the last maturity of the Outstanding Bonds, the Bonds or any Parity Bonds outstanding at the time of such purchase. Interest earned on any such investments and/or any profits realized from the sale thereof shall be deposited in and become a part of the Bond Redemption Fund.

Section 18. Subject to making the foregoing deposits, the Town may use the balance of excess funds in the Revenue Fund at the close of each fiscal year:

1. To purchase Outstanding Bonds, Bonds or

Parity Bonds in accordance with Section 7 above or to redeem such outstanding bonds on the next interest payment date on which they may be called for redemption.

2. For any expenditures (including the payment of debt service on parity or junior lien bonds) in improving or restoring any System facilities, or providing additional System or related facilities, or

3. For any lawful purpose related to the System.

Section 19. The Corporate authorities of the Town hereby declare in fixing the amounts to be paid into the Bond Redemption Fund and the Reserve Account as hereinbefore provided that they have exercised due regard to the necessary cost of maintenance and operation of the System and have not obligated the Town to set aside and pay into said Fund and Account a greater amount of the Gross Revenue than in their judgement will be available over and above such cost of maintenance and operation and such debt service.

Section 20. The Town hereby covenants with the owner and holder of each of the Bonds for as long as any of the same remain outstanding as follows:

a. That it will establish, maintain and collect rates and charges for water (and for sanitary sewage disposal service in the event that the sanitary sewerage system of the Town is combined with the water system) for as long as any of the Outstanding Bonds, the Bonds and any Parity Bonds are outstanding that will make available for the payment of the principal of and interest on all of such bonds as the same shall become due in an amount equal to at least 1.35 times the amount required each calendar year hereafter for the payment of all of such principal and interest (excluding, after December 1, 1977, the principal amount of any Term Bonds) after necessary costs of maintenance and operation of the System, but before depreciation.

b. That it will at all times keep and maintain the System in good repair,



working order and condition and will at all times operate the System and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) That it will not sell or otherwise dispose of all of the properties of the System unless provision is made for payment into the Bond Redemption Fund of a sum sufficient to pay the principal of and interest to the date of such payment on the Outstanding Bonds, the Bonds and any Parity Bonds in accordance with the terms - thereof, nor will it sell or otherwise dispose of any portion of the System unless provision is made for payment into the Bond redemption Fund of an amount which shall be in at least the same proportion to the amount of the Outstanding Bonds, the Bonds and any Parity Bonds outstanding that the net revenue available for debt service on all of such bonds for the twelve months immediately preceding such sale or disposal from the portion of the System sold or disposed of bears to the net revenue available for debt service on all of such bonds for the twelve months immediately preceding such sale or disposal from the portion of the System sold or disposed of bears to the net revenue available for debt service on all of such bonds from the System for the same period. Any such moneys so paid into the Bond Redemption Fund shall be used to retire part or all of such bonds outstanding at the earliest possible date.

(d) That it will not furnish water (or sanitary sewage disposal service in the event the sanitary sewerage system of the town is combined with the water system) to any customer whatsoever free of charge.

e. That it will carry fire and extended coverage insurance on the System as is ordinarily carried on the properties of similar public utilities by private companies engaged in the operation of the same to the full insurable value thereof and will also carry adequate public liability insurance, war risk insurance if it becomes available, and other kinds of insurance as under good

practice are ordinarily carried on the properties of similar public utilities engaged in the operation of the same. The premiums paid for all such insurance shall be regarded and paid as an expense of maintenance and operation of the System.

(f) That it will cause to be prepared each calendar year commencing with the calendar year of 1973 an annual statement of revenues and expenditures and a balance sheet covering all of the operations of the System by March 1st of the succeeding year. A copy of such statement and balance sheet shall be furnished to the holder of any of the Bonds and any Parity Bonds upon request made to the Town Clerk therefor. Such annual report shall demonstrate the manner in which the Town has complied with Section 11 (a) of Ordinance No. 59 and Section 20(a) of this ordinance.

Section 21. The Town hereby further covenants and agrees with the owner and holder of each of the Bonds for as long as any of the same remain outstanding that it will not issue any Parity Bonds except

A. That the Town reserves the right for

First, the purpose of acquiring, constructing and installing additions, betterments and improvements to and extensions of, acquiring necessary equipment for, or making necessary replacements of or repairs or capital improvements to the System, or

Second, the purpose of refunding by exchange or purchasing and retiring at or prior to their maturity any outstanding revenue bonds or revenue coupon warrants of the Town that may have a lien on the gross revenue of the System for the payment of the principal thereof and interest thereon junior and inferior to the lien on such gross revenue for the payment of the principal of and interest on the Bonds,

To issue additional and/or refunding revenue bonds therefor (herein called "Parity Bonds" as herein-before defined), and to pledge that payments shall be made out of the Gross Revenue into the Bond Redemption Fund

and the Reserve Account to pay and secure the payment of the principal of and interest on such Parity Bonds on a parity with the payments required in this ordinance to be made out of such Gross Revenue into such Fund and Account to pay and secure the payment of the principal of and interest on the Bonds upon compliance with the following conditions:

(1) That at the time of issuance of such Parity Bonds there is no deficiency in the Bond Redemption Fund or the Reserve Account therein, and

(2) That the Town will covenant in each ordinance authorizing the issuance of Parity Bonds that it will establish, maintain and collect rates and charges for water (and for sanitary sewage disposal service in the event that the sanitary sewerage system of the Town is combined with the water system) for as long as any of the Outstanding Bonds, the Bonds and any Parity Bonds are outstanding that will make available for the payment of the principal of and interest on all of such bonds as the same shall become due an amount equal to at least 1.35 times the amount required each calendar year thereafter for the payment of all such principal and interest after normal costs of maintenance and operation of the System have been paid but before depreciation.

The Town will also covenant in each such ordinance authorizing the issuance of Parity Bonds that it will pay into and maintain the Reserve Account out of the Gross Revenue within the times required by the second and third paragraphs of Section 17 of this ordinance the amounts required by said paragraphs to be paid into and maintained in said Account.

The whole or any part of the money in any other fund or account of the Town created to secure the payment of the principal of and interest on any revenue bonds or revenue coupon warrants being refunded by such Parity Bonds may be transferred to the Reserve Account at the time such outstanding bonds or warrants are redeemed to



satisfy the above requirement, and

(3) That at the time of the issuance of such Parity Bonds the Town shall have on file a certificate from an independent licensed professional engineer showing that in his professional opinion the net income of the System for a period of any twelve consecutive months out of the fifteen months immediately preceding the month of delivery of such Parity Bonds, plus his estimate of income to be received each calendar year thereafter from the investment of moneys in any fund or account created to pay or secure the payment of any bonds which have a lien on the gross revenue of the System, plus his estimate of the net income to be received by the System each calendar year thereafter as a result of any additions and improvements to and extensions of the System acquired, constructed or installed out of the proceeds of such Parity Bonds, will equal at least 1.35 times the amount required each such year to pay the principal of and interest on the Outstanding Bonds to be issued, after December 1, 1977, the principal amount of Term Bonds may be excluded in computing such "amount required."

The words "net income" as used in subparagraph (3) immediately above shall be construed as the Gross Revenue, less normal expenses of maintenance and operation, but before depreciation and annual debt service on any outstanding revenue bonds or revenue coupon warrants may have a lien on the Gross Revenue for such annual debt service junior and inferior to the lien on such money for the payment of the principal of and interest on the Bonds. Such "net income" may include any increase in revenue estimated to be derived from the operation of the System by virtue of any increase in water rates and charges (and charges for sanitary sewage disposal service if the sanitary sewerage system of the Town is combined with the water system) authorized by the Town Council to be effective not later than the

time of delivery of such Parity Bonds. If there are any customers added to the System during such twelve-month period, such net revenue may be computed on the basis that such customers were customers of the System during the entire period.

B. The Town further reserves the right to issue Parity Bonds for the purpose of refunding by exchange or purchasing and retiring at or prior to their maturity an equal principal amount of any part or all of the Outstanding Bonds, the Bonds and / or any Parity Bonds outstanding and to pledge that payment shall be made out of the Gross Revenue and into the Bond Redemption Fund and Reserve Account to pay and secure the payment of the principal of and interest on such refunding Parity Bonds on a parity with the payments required in this ordinance to be made out of such Gross Revenue into such Fund and Account to pay and secure the payment of the principal of and interest on the Bonds, if the conditions fixed in subparagraphs (1) and (2) of subsection A of this section are met, and if the issuance of such refunding bonds does not require a greater amount to be paid out of the Gross Revenue in any calendar year thereafter for the principal of and interest on such refunding Parity Bonds than was required to be paid out of such Gross Revenue in each of the same calendar years for the payment of the principal of and interest on the bonds being refunded, and any premiums paid to effect such redemption shall not be computed in determining such annual amounts.

C. Nothing herein contained shall prevent the Town from issuing revenue bonds or warrants (coupon or otherwise), the payment of the principal of and interest on which is made a charge upon the Gross Revenue junior or inferior to the payments required herein to be made out of such Gross Revenue into the Bond Redemption Fund and Reserve Account.

Section 22. The Town covenants and agrees that, if in any ordinance authorizing the issuance of Parity Bonds it is provided that excess

revenues in the Revenue Fund shall be used to redeem bonds in advance of their scheduled maturities or if the Town, at its option, undertakes to redeem Outstanding Bonds, Bonds, or Parity Bonds in advance of their scheduled maturities, (1) calls of bonds will be applied to each series of bonds which are then callable on an equal pro rata basis (reflecting the proportion of the original amount of each series of bonds outstanding at the time of such call) and (2) calls of bonds for each series of bonds will be in accordance with the call provision of the respective bond series. However, the Town shall have the right to call, subject to the call provisions of the respective bond series, any or all outstanding bonds which may be called at par prior to calling any bonds that are callable at a premium. The provision of this Section shall not apply with respect to the refunding, out of Bond proceeds, of part or all of any issue of Outstanding Bonds, Bonds or Parity Bonds, which results in a savings to the Town.

Section 23. In the event that money and / or direct obligations of the United States of America and / or "Government Obligations" as defined in RCW 39.53 maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the Bonds in accordance with their terms are set aside in the Bond Redemption Fund to effect such redemption and retirement, and such money and / or the principal of and interest on such obligations or Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Redemption Fund for the payment of the principal of and interest on the Bonds, and the Bonds shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the funds so set aside and pledged and the Bonds shall be deemed not to be outstanding hereunder.

Section 24. The Bonds shall be sold after advertisement on sealed

proposals to the highest and best private bidder submitting a bid or bids with an effective rate over the life of the Bonds of 5-5/8% or less. Bidders may submit bids for the entire issue only.

If no such bid is received from a bidder other than the United States of America or any officer or Department thereof for the Bonds, the Bonds shall be sold to the United States of America or any such officer or Department submitting a sealed bid at the rate agreed upon for the Bonds in the offer of the Government to purchase the Bonds, dated January 24, 1973, as amended.

The Clerk of the Town is hereby authorized and directed to cause a short form of the official notice of sale of the Bonds to be published at least once in the Seattle Daily Journal of Commerce, at least fifteen days prior to the date when such bids will be received, publicly opened, considered and acted upon. In the event that such publication has occurred prior to the final passage of this ordinance the action taken in causing such publication is hereby ratified and confirmed.

The proper Town officials are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Bonds to the purchaser and for the proper use and application of the proceeds of such sale.

PASSED by the Council of the Town of Gig Harbor, Washington, at a regular meeting of said Council held this 9th day of October, 1973, and approved by the Mayor on said date.

TOWN OF GIG HARBOR, WASHINGTON  
By E. A. Bunch  
Mayor Pro Tem

ATTEST:

Town Clerk

I, DONALD J. AVERY, the duly chosen, qualified and acting Clerk of the Town of Gig Harbor, Washington, DO HEREBY CERTIFY that the foregoing ordinance is a true and correct copy of Ordinance No. of said Town duly passed by its Council and approved by its Mayor at a regular Council meeting held on the 9th day of

October, 1973.

Donald J. Avery  
Town Clerk