

ORDINANCE NO. 500

AN ORDINANCE of the City Council of the City of Gig Harbor, Washington, providing for the issuance of water and sewer revenue bond anticipation notes of the city in the aggregate principal amount of \$2,000,000 to provide funds to carry out certain improvements to the City's water and sewer utilities pending the issuance of revenue bonds; providing the form, terms and maturity of said notes; creating a special fund for the payment of said notes; and accepting the offer of Boettcher & Company, Inc. to purchase such notes.

PASSED: November 16, 1987

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ORDINANCE NO. 514

AN ORDINANCE of the City Council of the City of Gig Harbor, Washington, providing for the issuance of water and sewer revenue bond anticipation notes of the city in the aggregate principal amount of \$2,000,000 to provide funds to carry out certain improvements to the City's water and sewer utilities pending the issuance of revenue bonds; providing the form, terms and maturity of said notes; creating a special fund for the payment of said notes; and accepting the offer of Boettcher & Company, Inc. to purchase such notes.

WHEREAS, the City of Gig Harbor, Washington (the "City") now owns, maintains and operates a combined system water and sewage (the "System") which System is in need of additions and improvements; and

WHEREAS, the City now has outstanding its Water and Sewer Revenue Refunding Bonds, Series 1985, issued pursuant to Ordinance No. 468 and outstanding in the aggregate principal amount of \$700,000; and

WHEREAS, by Ordinance No. 515 passed on August 10, 1987, City created its Utility Local Improvement District No. 2 ("ULID No. 2"), for the purpose of acquiring certain sewerage improvements described with particularity in Resolution No. 206 (the "Project"); and

WHEREAS, in order to pay part of the cost of acquiring, constructing and installing such Project, the City is authorized to issue and sell its water and sewer revenue bonds in an aggregate principal amount not to exceed \$2,000,000; and

WHEREAS, pursuant to Chapter 216, Laws of 1982 and Chapter 267, Laws of 1983, as amended (collectively the "Act"), the City is authorized, among other things, to borrow money in anticipation of the issuance of its revenue bonds; and

WHEREAS, it is deemed necessary and advisable and in the financial interest of the City that at this time the City authorize, sell and issue its water and sewer revenue bond anticipation note in the principal amount of \$2,000,000; and

WHEREAS, the City desires to fix the form, terms, date, covenants, and maturity of the notes to be issued hereunder and to provide for the sale thereof;

WHEREAS, it is deemed advisable and in the best interests of the City that the offer of Boettcher & Company, Inc., Seattle, Washington, to purchase the Notes be accepted;

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

#### ARTICLE I

##### Definitions

Section 1.1. Definitions. As used in this ordinance the following words shall have the following meanings:

"Assessments" means any assessments which may be levied in any utility local improvement district of the City created for the acquisition or construction of additions and improvements to and extensions of the System, including ULID No. 2, if such assessments are pledged to be paid into the Bond Fund. "Assessments"

includes any installments of assessments and any interest or penalties which may be due thereon.

"Assessment Income" means the principal of and interest on assessments levied in any utility local improvement district and pledged to be paid into the Bond Fund. In the case of assessments payable in installments, Assessment Income shall be allocated to the years in which it would be received if the unpaid principal balance of each assessment roll were paid in equal principal amounts over the remaining number of installments with interest on the declining balance at the times and at the rate provided in the ordinance confirming the assessment roll.

"Bond Fund" means the City of Gig Harbor Utility Bond Redemption Fund created in the office of the City Treasurer by Section 13 of Ordinance No. 468.

"Bonds" means the water and sewer revenue bonds in the principal amount of not to exceed \$2,000,000 herein authorized to be hereafter issued for the purpose of providing funds to pay part of the costs of the Project and to redeem the Notes.

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

"Costs of Maintenance and Operation" means all necessary operating expenses, current maintenance expenses, expenses of reasonable upkeep and repairs, and insurance and administrative expenses, but excludes depreciation, payments for debt service or

into reserve accounts, costs of capital additions to or replacements of the System, municipal taxes, or payments to the City in lieu of taxes.

"Council" means the City Council as the same shall be duly and regularly constituted from time to time.

"Debt Service Account" means the account of that name created in the Bond Fund by Section 14 of Ordinance No. 468.

"Future Parity Bonds" means any water and sewer revenue bonds which the City may hereafter issue having a lien upon the Revenue of the System for the payment of the principal thereof and interest thereon equal to the lien upon the Revenue of the System of Parity Bonds.

"Junior Lien Obligations" means revenue bonds or short-term obligations that are a charge on the revenues junior or inferior to the payments required to be made therefrom into the Note Fund.

"Net Revenue" means the Revenue of the System less the Costs of Maintenance and Operation.

"Note Fund" means the Water and Sewer Revenue Bond Anticipation Note Fund, 1987 created by Section 2.5 hereof.

"Note Register" means the books or records maintained by the Note Registrar for the purpose of registration of the Note.

"Note Registrar" means collectively the fiscal agency of the State of Washington in either Seattle, Washington, or New York, New York, for the purposes of registering and authenticating the Bonds, maintaining the Note Register, effecting transfer of

ownership of the Notes, and paying the principal of, and interest on the Notes.

"Notes" means the City's Water and Sewer Revenue Bond Anticipation Notes, 1987, the sale and issuance of which are authorized herein.

"Outstanding Bonds" means the City's Water and Sewer Revenue Refunding Bonds, Series 1985.

"Parity Bond Ordinance" means Ordinance No. 468 of the City Council which authorized the issuance of the Outstanding Bonds.

"Parity Bonds" means any revenue bonds or revenue warrants issued by the City that have a lien upon the Revenue of the System to pay and secure the payment of the principal thereof and interest thereon equal to the lien created upon the Revenue of the System to pay and secure the payment of the principal of and interest on the Outstanding Bonds. "Parity Bonds" includes the Outstanding Bonds and future revenue bonds or revenue warrants issued on a parity therewith.

"Project" means the improvements to the System described in Resolution No. 206.

"Purchase Offer" means the offer of Boettcher & Company, Inc. to purchase the Notes.

"Reserve" and "Reserve Account" means the Utility Reserve Account created in the Bond Fund by Section 15 of Ordinance No. 468 and shall include any subaccount created therein.



"Revenue Fund" means the "City of Gig Harbor Utility Revenue Fund" created by Section 12 of Ordinance No. 468, into which fund all of the Revenue of the System is to be deposited, as collected.

"Revenue of the System" means all earnings, revenue and moneys received by the City from or on account of the operation of the System, including the income from investments of money in the Revenue Fund and the Bond Fund or from any other investment thereof. "Revenue of the System" shall also include any federal or state reimbursements of operating expenses to the extent such expenses are included as "Costs of Maintenance and Operation."

"System" means the existing sanitary sewerage collection and treatment system of the City, as it now exists and as it may later be added to, extended and improved, and the existing water supply and distribution system of the City, as it now exists and as it may later be added to, extended and improved for as long as any Parity Bonds remain outstanding.

"Term Bonds" means any Parity Bonds identified as such in the ordinance authorizing the issuance thereof, the payment of which is provided for by a requirement for mandatory deposits of money into a "sinking fund account" in the Bond Fund.

"Treasurer" means the City Administrator, Clerk-Treasurer.

"ULID No. 2 Construction Fund" means the 1987 ULID No. 2 Construction Fund created by Section 2.9 hereof.

## ARTICLE II

### Authorization, Designation and Purpose of Issue

Section 2.1. Authorization and Purpose. For the purpose of providing part of the funds to pay the cost of acquiring, constructing, and equipping the Project, including all costs of engineering, architectural, planning, financial, legal, and other services lawfully incurred incident thereto, and in anticipation of the issuance of the water and sewer revenue bonds authorized by Section 2.2 hereof (the "Bonds"), the City is hereby authorized to issue its water and sewer revenue bond anticipation notes (the "Notes") in the principal amount of \$2,000,000.

Nothing herein shall prevent the City from utilizing any remaining proceeds of the Notes or earnings from the investment thereof for other capital improvements to the System after all of the costs and expenses of the Project have been paid or duly provided for and the City has met all its payment obligations hereunder.

Section 2.2. Authorization of Bonds. The City hereby authorizes the issuance of its water and sewer revenue bonds in the principal amount of not to exceed \$2,000,000 (the "Bonds") for the purposes specified and approved in Section 2.1 hereof, to redeem the Notes and to pay for all costs associated with the issuance of such Bonds.

The Bonds to be issued shall be in an aggregate principal amount sufficient, along with other moneys, to pay the principal of and interest on the Notes hereinafter authorized to be issued

and sold. The Bonds shall be payable out of the Bond Fund and shall be in such denominations and form, shall be dated, shall bear such interest rate or rates, shall be payable at such place or places, shall have such option of payment prior to maturity, shall guarantee such coverage and collection of rates, shall provide for such additional funds and accounts, and shall contain and be subject to such provisions or covenants as shall be hereafter provided by ordinance, and may be issued in one or more series or combined with any subsequently authorized revenue bonds and issued as a single combined issue.

Section 2.3. Terms. The Notes shall be designated as the "City of Gig Harbor, Washington, Water and Sewer Revenue Bond Anticipation Notes, 1987," shall be dated as of November 15, 1987, shall be issued in fully registered form in the denomination of \$5,000 or any integral multiple thereof, shall bear interest at a per annum rate of 6.25%, and shall mature on May 15, 1989. Interest on the Notes shall be calculated on the basis of a three hundred sixty (360) day year with thirty (30) day months.

The fiscal agencies of the State of Washington in the cities of Seattle, Washington, and New York, New York, shall act as registrar for the Notes (collectively, the "Note Registrar"). Both principal of and interest on the Notes shall be payable in lawful money of the United States of America. Principal of and interest on the Notes shall be paid upon presentation and surrender of the Notes by the registered owners at the principal

offices of the Note Registrar in the cities of Seattle, Washington or New York, New York.

The Notes shall be an obligation only of the Note Fund and shall be payable and secured as provided herein. The Notes shall not be deemed to constitute a general obligation or a pledge of the faith and credit or taxing power of the City or the State of Washington.

Section 2.4. Prior Redemption.

(a) Optional Redemption. The Notes shall be subject to redemption prior to maturity by lot (or in such other manner determined by the Note Registrar) at the option of the City in whole or in part at any time on or after November 15, 1988 (upon written notice mailed as provided herein) at a price of par plus interest accrued to the date fixed for redemption.

(b) Notice of Redemption. Notice of special or optional redemption shall be given not less than thirty (30) days prior to the date fixed for redemption by first class mail, postage prepaid, to the registered owners at the address appearing on the Note Register. Notice also shall be given to Boettcher & Company, Inc., Seattle, Washington, or to its business successor, if any, provided that such notice shall not be a condition precedent to the redemption of Notes.

(c) Partial Redemption. Portions of the principal amount of any Note, in installments of \$5,000 or any integral multiple of \$5,000, may be redeemed. If less than all of the principal amount of any Note is redeemed, upon surrender of such

Note at the principal office of the Note Registrar there shall be issued to the registered owner, without charge therefor, for the then unredeemed balance of the principal amount thereof, a new Note or Notes, at the option of the registered owner, of like maturity and interest rate in any denomination authorized by this ordinance.

(d) Effect of Redemption. Interest on the Note or Notes so called for redemption shall cease on such redemption date unless the same shall not be redeemed upon presentation made pursuant to such call.

Section 2.5. Note Fund--Security and Sources of Payment of Note. There is hereby established a special fund of the City to be known as the "Water and Sewer Revenue Bond Anticipation Note Fund, 1987" (the "Note Fund"), which fund shall be a trust fund and shall be drawn upon only for the payment of the principal of and interest on the Notes. The City hereby covenants and agrees that on or before May 15, 1989, it will deposit in the Note Fund, proceeds of the Bonds and unencumbered revenues, other than tax revenues, in an amount sufficient to pay the principal of and interest on the Notes as the same become due.

The City hereby covenants and agrees that from and after the time of issuance and delivery of the Notes and for as long thereafter as they shall remain outstanding, the City shall set aside and pay into the Note Fund out of the Revenue Fund amounts sufficient to pay the interest on the Notes as they become due. The City hereby further covenants and agrees that if sufficient funds

are not on hand to make the required payment of principal of and interest due on the Notes at maturity or prior redemption, it will take such steps as are necessary to issue and sell the Bonds in one or more series or a subsequent issue or issues of short-term obligations in an aggregate principal amount sufficient along with other available moneys to make such payment.

In order to secure the payments when due of the principal of and interest on the Notes and the performance of any other obligation of the City to the owner of the Notes, the City hereby pledges to such payment and performance all amounts from time to time on deposit in the Note Fund.

Section 2.6. Execution and Delivery of Notes. The Notes shall be executed on behalf of the City by the manual or facsimile signature of the Mayor of the City and attested by the manual or facsimile signature of the City Clerk. The official seal of the City shall be impressed or a facsimile thereof imprinted on each Note. In case any officer whose signature shall appear on any Notes shall cease to be an officer before the delivery of such Notes, such signature shall nevertheless be valid and sufficient for all purposes, and such Note may be authenticated and delivered the same as if such officer had remained in office until such delivery.

Only such Notes as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Note 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 Notes so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this ordinance.

Section 2.7. Note Registrar. The City hereby specifies and adopts the system of registration for the Notes approved by the Washington State Finance Committee. The Note Registrar shall keep, or cause to be kept, at its principal corporate trust office sufficient books for the registration and transfer of the Notes which shall at all times be open to inspection by the City. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Notes transferred or exchanged in accordance with the provisions of such Notes and this ordinance and to carry out all of the Note Registrar's powers and duties under this ordinance.

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

Upon the passage of this ordinance the proper officials of the City shall do all things necessary for the prompt execution and delivery of the Notes to the underwriter.

Section 2.8. Sale of Notes. The City hereby accepts the offer of Boettcher & Company, Inc., Seattle, Washington, as underwriter, dated November 16, 1987 to purchase the Notes in accordance with the terms contained in this ordinance and said offer. It is hereby found and determined that such negotiated sale is in the best interests of the City.

Section 2.9. Application of Note Proceeds. The proceeds of sale of the Notes (exclusive of any accrued interest, which shall be paid into the Note Fund) shall be paid into a special fund of the City that is hereby created and designated the 1987 ULID No. 2 Construction Fund (hereinafter called the "ULID No. 2 Construction Fund"). Moneys in the ULID No. 2 Construction Fund shall be used for paying part of the cost of acquiring, constructing and installing the additions and improvements to and extensions of the System authorized in Resolution No. 206 and for paying all expenses incidental thereto (including but not limited to costs of issuance of the Notes, engineering, financing, legal or any other incidental costs) and for repaying any advances heretofore or hereafter made on account of such costs or for redeeming the Notes.

All moneys in the ULID No. 2 Construction Fund shall be continuously and fully invested in any legal investment for City funds. Interest earned and income or profits derived by virtue of such investments may remain in the ULID No. 2 Construction Fund and be used for the purposes for which the Notes are issued or at the option of the City Council, may be used for other System



purposes. Notwithstanding the foregoing provisions of this Section, moneys in the ULID No. 2 Construction Fund may be transferred to the Note Fund in such amounts as shall be necessary to pay principal of and interest on the Notes.

Section 2.10. Defeasance. In the event that money and/or "Government Obligations," as such Obligations are now or may hereafter be defined in Ch. 39.53 RCW, maturing at such time or times and bearing interest to be earned thereon in amounts sufficient to redeem and retire the Notes in accordance with their terms are set aside in a special account to effect such redemption or retirement and such money and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Note Fund for the payment of the principal of and interest on the Notes so provided for and such Notes 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 such Notes shall be deemed not to be outstanding hereunder.

Section 2.11. Lost, Destroyed or Mutilated Notes. In the event any Note is lost, destroyed, or mutilated, the City will cause to be issued a new Note, substantially similar to the original, to replace the same, in such manner and upon such reasonable terms and conditions as the Note Registrar may from time to time determine.

## ARTICLE III

### Representations and Warranties

The City represents, warrants and agrees as follows:

Section 3.1. Authority. The City has full legal right, power and authority (i) to pass this ordinance, (ii) to sell, issue and deliver the Notes as provided herein, and (iii) to carry out and consummate all other transactions contemplated by this ordinance.

Section 3.2. Due Authorization and Approval of Ordinance and Notes. By all necessary official action prior to or concurrently herewith, the City has duly authorized and approved the execution and delivery of, and the performance by the City of its obligations contained in the Notes and this ordinance and the consummation by it of all other transactions contemplated by this ordinance in connection with the issuance of the Notes, and such authorizations and approvals are in full force and effect and have not been amended, modified or supplemented in any material respect.

Section 3.3. Ordinance to Constitute Legal, Valid and Binding Obligations of the City. This ordinance constitutes the legal, valid and binding obligation of the City.

Section 3.4. Notes to Constitute Legal, Valid and Binding Revenue Obligations of the City. The Notes, when issued, authenticated and delivered, will constitute the legal, valid and binding obligations of the City .

Section 3.5. No Breach or Default. The City is not in breach of or default under applicable judgment or decree or any loan agreement, ordinance, bond, note, resolution, agreement or other instrument to which the City is a party or to which the City or any of its property or assets is otherwise subject where such breach or default would have a material adverse effect on the operations or financial condition of the City; and (i) the adoption of this resolution, and (ii) the sale, issuance and delivery of the Notes, and compliance with the provisions on the City's part contained therein, will not conflict with or constitute a breach of or default under any constitutional provision, law, administrative, regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or to which the City or any of its property or assets is otherwise subject, nor with any such adoption, execution, delivery, sale, issuance or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the City or under the terms of any such law, regulation or instrument, except as provided by the Notes and this ordinance.

#### ARTICLE IV

##### Covenants of the City

Section 4.1. Priority of Payments from Revenue of the System. There has heretofore been established in the office of the City Administrator a special fund of the City known as the

"City of Gig Harbor Utility Revenue Fund" (the "Revenue Fund"), as collected. The Revenue Fund shall be held separate and apart from all other funds and accounts of the City, the Revenue of the System shall be used only for the following purposes and in the following order of priority:

First, to pay the Costs of Maintenance and Operation of the System;

Second, to make all payments required to be made into the Bond Fund to pay the interest on any Parity Bonds;

Third, to make all payments required to be made into the Bond Fund to pay the maturing principal of any Parity Bonds;

Fourth, to make all payments required to be made into the Reserve Account created to secure the payment of the Parity Bonds;

Fifth, to make all payments required to be made into the Note Fund and to secure the principal of and interest on the Notes;

Sixth, to make all payments required to be made into any revenue bond redemption fund or revenue warrant redemption fund and debt service account or reserve account created to pay and secure the payment of the principal of and interest on any revenue bonds or revenue warrants of the City having a lien upon the Revenue of the System junior and inferior to the lien thereon for the payment of the principal of and interest on the Parity Bonds; and

Seventh, to retire by redemption or purchase in the open market any outstanding revenue bonds or revenue warrants of the City, to make necessary additions, betterments and improvements and repairs to or extensions and replacements of the System, or for any other lawful City purposes.

Section 4.2. Covenants of the City. The City hereby covenants with the owners of the Notes as follows:

(a) Punctual Payment of Notes. The City covenants that amounts on deposit in the Note Fund shall be drawn upon solely for the purpose of paying the principal of and interest on the Notes. The City further covenants that it will duly and punctually pay or cause to be paid the principal of and interest on every Note at the place or places, on the date or dates and in the manner provided in the Notes, and herein. The City further covenants and agrees that it will issue the Bonds or refunding bond anticipation notes in such amount and at such time as will enable it to make the deposit into the Note Fund required by Section 2.5 of this ordinance.

The covenant hereunder duly and punctually to pay the principal of and interest on the Notes is hereby declared to constitute a lien and charge upon available moneys in the Revenue Fund and the ULID No. 2 Construction Fund. The lien and charge upon available moneys in the Revenue Fund shall be prior and superior to all other liens and charges except for the payments described in paragraphs First through Fourth of Section 4.1 hereof. Nothing contained herein shall be construed as preventing or hindering the

Council or the Treasurer from authorizing disbursements from the Revenue Fund in accordance with the Parity Bond Ordinance.

The lien and charge on the ULID No. 2 Construction Fund shall be prior and superior to all other liens and charges, and no moneys or investments shall be transferred out of such fund into the Revenue Fund or the Bond Fund or applied for any purpose other than as specified in Section 2.9 hereof unless and until the Project has been completed and the Notes have been paid in full.

Except as otherwise provided in this ordinance, the principal of and interest on the Notes are payable solely from the funds pledged therefor by this ordinance, and nothing in the Notes or in this ordinance shall be construed as obligating or pledging the faith and credit or taxing power of the State of Washington or the City.

(b) Notes to Remain Tax Exempt; Nonarbitrage. 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 Notes 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 Notes. 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 investment of the proceeds of any Notes or other funds that would result in constituting the Notes "arbitrage bonds" within the meaning of such

term as used in Section 148 of the Internal Revenue Code of 1986, as amended (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 a bond issuer whose arbitrage certifications may not be relied upon.

(c) Designation and Use of Proceeds. The City further covenants that it will not take any action or permit any action to be taken that would cause the Notes to constitute "private activity bonds" under Section 141 of the Code. The City hereby designates the Notes as "qualified tax-exempt obligations" under Section 265(b) of the Code. The City does not expect to issue tax-exempt obligations in an aggregate principal amount in excess of \$10,000,000 during the calendar year 1987.

(d) Use of Note Proceeds; Restrictions on Amendments. The City covenants that none of the proceeds of the Notes will be used for any purpose other than as provided in this ordinance and that the City shall not suffer any amendment or supplement to this ordinance, or any departure from the due performance of the obligations of the City hereunder, that might materially adversely affect the rights of the owners from time to time of the Notes.

(e) Application of Bond Proceeds. The City covenants that the proceeds of sale of any Bonds shall be applied first to the deposit into the Note Fund to redeem and retire the Notes.

(f) Maintenance of System. The City shall at all time maintain, preserve and keep the properties of the System in good

repair, working order and condition and will from time to time make all necessary and proper repairs, renewals, replacements, extensions and betterments thereto, so that at all times the business carried on in connection therewith will be properly and advantageously conducted and said properties of the System and the business in connection therewith administered in an efficient manner and at a reasonable cost.

(g) Collection and Application of Assessments. The City will promptly collect all Assessments levied in utility local improvement districts that have been heretofore created by the City and all Assessments levied in utility local improvement districts that are hereafter created to secure the payment of the principal of and interest on Parity Bonds and will pay the same into the Bond Fund. The same may be used to meet required payments into any Account of the Bond Fund and may be used to pay the principal of and interest on any Parity Bonds without said Assessments being particularly allocated to the payment of any particular series of bonds payable out of such Fund. It is hereby further provided, however, that nothing in this ordinance or in this subsection shall be construed to prohibit the City from issuing revenue bonds having a lien on the Revenue of the System and the money in the Revenue Fund junior to the lien on such revenue and money for the payment of the principal of and interest on the Bonds and pledging as security for the payment of such junior lien bonds assessments levied in any utility local improvement district that may have been created to pay part or all of the



cost of improvements to the System for which such junior revenue bonds were specifically issued.

(h) Rates and Charges. The City shall fix, maintain and collect rates and charges for the use of the services and facilities and all commodities sold, furnished or supplied by the System, which shall be fair and nondiscriminatory and shall adjust such rates and charges from time to time so that:

(1) the Revenue of the System derived therefrom, together with Assessments collected, will at all times be sufficient (a) to pay the Costs of Maintenance and Operation, (b) to pay the principal of and interest on all Parity Bonds (and the Notes, if necessary), as and when the same shall become due and payable, (c) to make adequate provision for the payment of the any Term Bonds, (d) to make when due all payments which the City is obligated to make into the Reserve Account and all other payments which the City is obligated to make pursuant to this ordinance, and (f) to pay all taxes, assessments or other governmental charges lawfully imposed on the System or the revenue therefrom or payments in lieu thereof and any and all other amounts which the City may now or hereafter become obligated to pay from the Revenue of the System by law or contract; and

(2) the Net Revenue together with Assessment Income in each calendar year will equal at least 1.30 times the maximum amount required to be paid in any succeeding calendar year for the principal of and interest on all Parity

Bonds then outstanding. In the event the City issues any Term Bonds, and provides for the payment thereof by a mandatory schedule of payments into a sinking fund account in the Bond Fund, the words "principal of and interest on all outstanding Parity Bonds" in the preceding sentence shall be deemed to exclude from "principal" an amount of Term Bonds equal to such mandatory payments, and from "interest" the interest on such Term Bonds subsequent to the date of the respective deposits, and to include in lieu thereof the mandatory sinking fund deposits as of the date required and interest on Term Bonds provided for by such deposits only to the date of the respective deposits.

(i) Sale of Properties. The City will not sell or otherwise dispose of the System in its entirety unless simultaneously with such sale or other disposition, provision is made for the payment into the Bond Fund and the Note Fund of cash or Government Obligations (as now or hereafter defined in RCW 39.53) sufficient (taking into account interest to be earned on any such Government Obligations) to pay the principal of and interest on all then outstanding Parity Bonds and the Notes, nor will it sell or otherwise dispose of any part of the useful operating properties of the System unless such facilities are replaced or provision is made for payment into the Bond Fund and the Note Fund of the greatest of the following:

(1) An amount which will be in the same proportion to the net amount of Parity Bonds and Notes then outstanding

(defined as the total amount of the Parity Bonds and Notes less the amount of cash and investments in the Bond Fund and the Note Fund and Accounts therein) that the Revenue from the portion of the System sold or disposed of for the preceding year bears to the total Revenue of the System for such period; or

(2) An amount which will be in the same proportion to the net amount of Parity Bonds and Notes then outstanding (defined as the total amount of the Parity Bonds less the amount of cash and investments in the Bond Fund and the Note Fund and Accounts therein) that the Net Revenue from the portion of the System sold or disposed of for the preceding year bears to the total Net Revenue of the System for such period; or

(3) An amount which will be in the same proportion to the net amount of Parity Bonds and Notes then outstanding (as defined above) that the depreciated cost value of the facilities sold or disposed of bears to the depreciated cost value of the entire System immediately prior to such sale or disposition.

Notwithstanding any other provision of this paragraph, the City may sell or otherwise dispose of any of the works, plant, properties and facilities of the System or any real or personal property comprising a part of the same which shall have become unserviceable, inadequate, obsolete or unfit to be used in the operation of the System, or no longer necessary, material to or

useful in such operation, without making any deposit into the Bond Fund or the Note Fund.

(j) No Free Service. The City will not furnish or supply or permit the furnishing or supplying of any commodity, service or facility furnished by or in connection with the operation of the System, free of charge to any person, firm or corporation, public or private, so long as any Notes are outstanding and unpaid.

(k) Enforcement of Collection of Service Charges and Assessments. The City shall promptly take action to enforce the payment of delinquent service charges and Assessments by such means as are legally available.

(l) Additional Indebtedness. For so long as any of the Notes shall be outstanding, the City shall not create any indebtedness or issue any bonds, notes, or other evidences of indebtedness, payable as to principal or interest from the Revenue Fund prior to or on a parity with the payment obligation therefrom of the Notes or secured as to principal or interest by a lien, pledge, or charge thereon, provided that nothing herein shall prohibit the City from (i) issuing the Bonds or additional bond anticipation notes for the purpose of redeeming and retiring the Notes or (ii) issuing its water and sewer revenue refunding bonds for the purpose of defeasing any or all of the City's outstanding Parity Bonds.

Section 4.3. Bonds or Short-Term Obligations Junior to Notes. The City may issue obligations with a lien upon Revenues junior to the lien of the Notes.

Section 4.4. Due Regard for Expenses of Operation and Maintenance. The Council hereby declares that, in creating the Note Fund, it has exercised due regard for the necessary expenses of operation and maintenance of the System and the portion of the revenues of the System previously pledged for the payment of the Parity Bonds, and has not obligated the City to set aside, pay into and maintain in said fund a greater amount of the revenues of the System than in its judgment will be available over and above such necessary expenses of operation and maintenance.

#### ARTICLE V

##### Form of Notes and Certificate of Authentication

The Notes shall be in substantially the following form:

UNITED STATES OF AMERICA

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

No. \_\_\_\_\_

STATE OF WASHINGTON

CITY OF GIG HARBOR, WASHINGTON

WATER AND SEWER REVENUE BOND ANTICIPATION NOTE, 1987

SEE REVERSE SIDE FOR  
CERTAIN ABBREVIATIONS

MATURITY DATE: May 15, 1989  
CUSIP NUMBER:

Registered Owner:

Principal Amount: \_\_\_\_\_ DOLLARS

The City of Gig Harbor, Washington, a municipal corporation of the State of Washington (hereinafter called the "City"), hereby acknowledges itself to owe and for value received promises to pay, but solely from the Note Fund, to the Registered Owner identified above, or registered assigns, on the Maturity Date the Principal Amount of \_\_\_\_\_ Dollars and to pay interest thereon from the date hereof, or the most recent date to which interest has been paid or duly provided for until payment of this note, at the rate of \_\_\_\_\_% per annum, payable on \_\_\_\_\_, and semi-annually thereafter on the \_\_\_\_\_ day of each \_\_\_\_\_ and \_\_\_\_\_. Both principal of and interest on this note are payable in lawful money of the United States of America. Interest shall be paid by mailing a check or draft (on the date such interest is due) to the Registered Owner or assigns at the address shown on the Note Register as of the 1st day of the month of the interest payment date. Principal shall be paid to the Registered Owner or assigns upon presentation and surrender of this note at the office of the fiscal agency of the State of Washington in either Seattle, Washington or New York, New York (the "Note Registrar").

Reference is hereby made to additional provisions of this note set forth on the reverse side hereof, and such additional provisions shall for all purposes have the same effect as if set forth in this space.

This note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Ordinance (as hereinafter defined) until the Certificate of Authentication hereon shall have been manually signed by the Note Registrar.

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 note have happened, been done and performed and that the issuance of this note and the notes of this series 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 note to be signed with the facsimile signature of the Mayor and attested by the facsimile signature of the City Clerk,

and the seal of the City to be impressed or a facsimile thereof to be imprinted hereon, as of this 15th day of November, 1987.

CITY OF GIG HARBOR, WASHINGTON

By \_\_\_\_\_  
Mayor

ATTEST:

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

#### CERTIFICATE OF AUTHENTICATION

This note is one of the notes described in the within-mentioned Note Ordinance and is one of the Water and Sewer Revenue Bond Anticipation Notes, 1987 of the City of Gig Harbor, Washington, dated November 15, 1987.

WASHINGTON STATE FISCAL AGENCY  
Note Registrar

By \_\_\_\_\_  
Authorized Officer

#### ADDITIONAL PROVISIONS

This note is one of an authorized issue of notes of like date and tenor, except as to number and amount, in the aggregate principal amount of \$2,000,000. The notes 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. \_\_\_\_\_ (herein called the "Note Ordinance") of the City for the purpose of providing funds to acquire, construct, equip, and make additions and improvements to the City's water and sewer system. The Notes are issued in anticipation of the issuance of water and sewer revenue bonds authorized by the Note Ordinance to be issued in an aggregate principal amount of not to exceed \$2,000,000.

This note is a special obligation of the City and is payable solely from the Note Fund of the City. The City has further covenanted to issue the Bonds or additional short-term obligations and to apply money out of the Revenue Fund in amounts sufficient to pay when due the principal of and interest on any and all

outstanding notes. The obligation to apply such funds shall constitute a lien and charge upon available moneys in the Revenue Fund. The lien and charge upon available moneys in the Revenue Fund shall be prior and superior to all other liens and charges save and except that such lien and charge shall be junior, subordinate, and inferior to Costs of Operation and Maintenance and to the lien and charge on the Revenue Fund for the payments required by the Parity Bond Ordinance to be made into the Bond Fund and the Debt Service Account and Reserve Account therein and any sinking fund account hereafter created to amortize the principal of term bonds.

The City has reserved the right to redeem the outstanding notes of this issue prior to maturity in whole or in part on any date on or after November 15, 1988, upon written notice mailed as provided hereafter at the price of par plus interest accrued to the date fixed for redemption. If less than all of the notes are so called for redemption, the notes to be redeemed shall be chosen by lot by the Note Registrar.

Notice of any call for redemption shall be given not less than thirty (30) nor more than forty (40) days prior to the date fixed for redemption by first class mail, postage prepaid, to the registered owner of any note to be redeemed at the address appearing on the Note Register. The requirements of the Note Ordinance shall be deemed to have been complied with when notice is mailed as herein provided, regardless of whether or not it is actually received by the owner of any note.

Interest on any notes so called for redemption shall cease upon such redemption date unless the same shall not be redeemed upon presentation made pursuant to such call.

If less than all of the principal amount of any note is redeemed, upon surrender of such note at the principal office of the Note Registrar there shall be issued to the registered owner, without charge therefor, for the then unredeemed balance of the principal amount thereof, a new note or notes, at the option of the registered owner, of like maturity and interest rate in any of the denominations authorized by the Note Ordinance.

The City hereby irrevocably covenants and agrees with the registered owner of this note that it will keep and perform all the covenants of this note and of the Note Ordinance to be by it kept and performed. Reference is hereby made to the Note Ordinance for a complete statement of such covenants and for the definition of capitalized terms used herein.



The following abbreviations, when used in the inscription on the face of the within Note, shall be construed as though they were written out in full according to applicable laws or regulations.

NOTE: The signature on this Assignment must correspond with the name of the registered owner as it appears upon the face of the within note in every particular, without alteration or enlargement or any change whatever.

## ARTICLE VI

### Miscellaneous

Section 6.1. General Authorization. The City officials are hereby authorized to do and perform from time to time any and all acts and things consistent with this ordinance necessary or appropriate to carry the same into effect.

Section 6.2. Effect of Partial Invalidity. In case any one or more of the provisions of this ordinance or of the Notes shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this resolution or of said Notes, but this ordinance and said Notes shall be construed and enforced as if such illegal or invalid provision had not been contained therein. In case any covenant, obligation or agreement contained in the Notes or in this ordinance shall for any reason be held to be in violation of law, then such covenant, obligation or agreement shall be deemed to be the covenant, obligation or agreement of the City to the full extent permitted by law.

Section 6.3. Effect of Covenants, Etc. All covenants, obligations and agreements of the City contained in this ordinance

shall be deemed to be covenants, obligations and agreements of the City to the full extent authorized by the Act and permitted by the Constitution of the State of Washington. No covenant, obligation or agreement contained herein shall be deemed to be a covenant, obligation or agreement of any present or future member, agent or employee of the City in his individual capacity, and neither the members of the City Council nor any officer thereof executing the Notes shall be liable personally on the Notes or be subject to any personal liability or accountability by reason of the issuance thereof. No member, officer, agent or employee of the City shall incur any liability in acting or proceeding or in not acting or proceeding, in good faith in accordance with the terms of this ordinance and the Act.

Section 6.4. Ordinance to Constitute Contract. In consideration of the purchase and acceptance of any of the Notes authorized to be issued hereunder by those who shall hold the same from time to time, this ordinance shall be deemed to be and shall constitute a contract between the City and such owners, and the covenants and agreements set forth in this ordinance to be performed on behalf of the City shall be for the equal benefit, protection and security of the owners of any and all of the Notes, all of which, regardless of the time or times of their delivery or maturity, shall be of equal rank without preference, priority or distinction of any of the Notes over any other thereof, except as expressly provided in or permitted by their terms with respect to rate of interest or otherwise.

Read for the first time on October 26, 1987 and finally  
PASSED by the City Council of the City of Gig Harbor, Washington,  
at a regular Council meeting this 16th day of November, 1987.

CITY OF GIG HARBOR, WASHINGTON

By

John W. McKinley  
Mayor

ATTEST:

M. L. K.  
City Administrator

Published: 11/18/87

Effective: 11/23/87

CLERK'S CERTIFICATE

I, the undersigned, the duly chosen, qualified and acting Clerk of the City of Gig Harbor, Washington (the "City"), and keeper of the records of the City Council (herein called the "Council"), DO HEREBY CERTIFY:

1. That the attached Ordinance No. 502 (herein called the "Ordinance") is a true and correct copy of an ordinance of the City, as passed at a regular meeting of the Council held on the 9th day of November, 1987, and duly recorded in my office.

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 said ordinance; that all other requirements and proceedings incident to the proper passage of said 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 and affixed the official seal of the City as of this 14<sup>th</sup> day of November, 1987.

Michael A. K. B.  
City Clerk


SUMMARY OF ORDINANCE NO. 522

AN ORDINANCE OF THE CITY OF GIG HARBOR, WASHINGTON,  
PROVIDING FOR THE ISSUANCE OF WATER AND SEWER REVENUE  
BOND ANTICIPATION NOTES OF THE CITY IN THE AMOUNT OF  
\$2,000,000.

This ordinance which was passed by the City Council of Gig Harbor, Washington on November 15, 1987, provides for the issuance of water and sewer revenue bond anticipation notes of the city in the principal sum of \$2,000,00 to provide funds to carry out certain improvements to the city's water and sewer utilities pending the issuance of revenue bonds; providing the form, terms and maturity of such notes; creating a special fund for the payment of such notes; and accepting the offer of Boettcher and Company, Inc. to purchase such notes.

The full text of this ordinance may be inspected during normal business hours Monday through Friday at Gig Harbor City Hall, 3105 Judson Street.

Approved by the city council at their meeting of  
November 16, 1987.

  
\_\_\_\_\_  
Michael R. Wilson  
City Administrator/Clerk  
City of Gig Harbor