ORDINANCE NO. 3689

AN ORDINANCE of the City Council of the City of Kent, Washington, relating to contracting indebtedness; providing for the issuance of $3,465,000 par value of Unlimited Tax General Obligation Refunding Bonds, 2004 (Taxable), of the City to provide funds with which to pay the cost of advance refunding a portion of the City's outstanding Unlimited Tax General Obligation Refunding Bonds, 1993, and paying the administrative costs of such refunding and the costs of issuance and sale of such bonds; fixing the date, form, maturity, interest rate, options of redemption, terms and covenants of the bonds; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with U.S. Bank National Association of Seattle, Washington, as refunding trustee; establishing a bond redemption fund; providing for bond insurance; and approving the sale and providing for the delivery of the bonds to Lehman Brothers Inc. of Seattle, Washington.

PASSED MAY 4, 2004

This document prepared by:

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UTGO Refunding Bonds, 2004
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RECITALS

A. Pursuant to Ordinance No. 2948, the City heretofore issued its $6,700,000 par value Unlimited Tax General Obligation Bonds, 1990 (the “1990 Bonds”), for the purpose of paying part of the cost of aiding and cooperating with The Housing Authority of the County of King, a public body corporate and politic formed under Washington law (the “Authority”), in the planning, designing, acquiring, development, constructing, rehabilitating and equipping of housing, together with related facilities, in the City for low-income senior citizens (the “Project”).

B. Pursuant to Ordinance No. 3115, the City heretofore issued its $14,085,000 par value Unlimited Tax General Obligation Refunding Bonds, 1993 (the "1993 Bonds"), a portion of which 1993 Bonds were used to pay the cost of advance refunding the callable portion of the 1990 Bonds.
C. There are presently outstanding $3,210,000 par value of 1993 Bonds allocable to the 1990 Bonds as more fully described herein (the "Refunded Bonds").

D. Pursuant to that certain Housing Cooperation Agreement dated June 13, 1991 (the "HCA"), between the Authority and the City, the City on December 15, 1992, transferred the Project to the Authority for operation by the Authority, and the Authority has operated the Project since that time.

E. Pursuant to a First Amendment to Housing Cooperation Agreement (the "HCA Amendment"), between the Authority and the City, the City expects to agree to permit the Authority to enter into certain transactions with a tax credit limited partnership in which the Authority will be the sole managing partner (the "Partnership") for the purpose of enabling the Authority and the Partnership to finance the cost of needed repairs and capital replacements for the Project at a cost of approximately $2,400,000.

F. The Partnership will be a nongovernmental person, and the transactions between the Authority and the Partnership may cause the 1993 Bonds to be treated as taxable private activity bonds unless the City takes a remedial action with respect to the Refunded Bonds in the manner permitted by applicable United States Treasury Regulations issued by the Internal Revenue Service under the Internal Revenue Code of 1986, as amended.

G. After due consideration, it appears to the City Council that a remedial action may be accomplished with respect to the Refunded Bonds by the issuance and sale of the taxable unlimited tax general obligation refunding bonds authorized herein (the "Bonds") to refund and defease the Refunded Bonds, which refunding will be effected by:

(a) The issuance of the Bonds and the payment of the costs of the issuance of the Bonds and the costs of the refunding; and

(b) The payment of the principal of and interest on the Refunded Bonds when due up to and including their maturity.
H. To effect that refunding in the manner that will be most advantageous to the City it is found necessary and advisable that certain Acquired Obligations (hereinafter defined) bearing interest and maturing at such time or times as necessary to accomplish the refunding as aforesaid be purchased out of the proceeds of the Bonds and other funds provided by the Authority to the extent, if any, necessary under the requirements of chapter 39.53 RCW applicable to the Bonds, in accordance with the HCA Amendment.

I. The City Council deems it to be in the best interests of the City to issue and sell the Bonds to pay the cost of advance refunding the Refunded Bonds and to pay the administrative costs of such refunding and the costs of issuance and sale of the Bonds.

J. Financial Guaranty Insurance Company of New York, New York ("Bond Insurer"), has made a commitment to issue an insurance policy (the "Municipal Bond Insurance Policy") insuring the payment when due of the principal of and interest on the Bonds as provided therein, and the City Council of the City deems that the purchase of the Municipal Bond New Issue Insurance Policy is in the best interest of the City.

K. Lehman Brothers Inc. of Seattle, Washington, has offered to purchase the bonds authorized herein under the terms and conditions hereinafter set forth in the form of a Bond Purchase Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

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

"Acquired Obligations" means those direct, noncallable obligations of the United States of America purchased to accomplish the refunding of the Refunded Bonds as authorized by this ordinance and chapter 39.53 RCW.
“Bond Fund” means the Unlimited Tax General Obligation Refunding Bond Fund, 2004 (Taxable), created by this ordinance for the payment of the Bonds.

“Bond Insurer” means Financial Guaranty Insurance Company.

“Bond Register” means the books or records maintained by the Bond Registrar containing the name and mailing address of the owner of each Bond and the principal amount and number of Bonds held by each owner.

“Bond Registrar” means the Fiscal Agent.

“Bonds” means the $3,465,000 par value Unlimited Tax General Obligation Refunding Bonds, 2004 (Taxable), of the City issued pursuant to and for the purposes provided in this ordinance.

“City” means the City of Kent, Washington, a municipal corporation duly organized and existing under and by virtue of the laws of the state of Washington.


“DTC” means The Depository Trust Company, New York, New York.

“Finance Director” means the Finance Director of the City.

“Fiscal Agent” means the fiscal agent of the state of Washington, or any other paying agent/registrar of the City, as the same may be designated from time to time.

“Letter of Representations” means the Blanket Issuer Letter of Representations dated March 16, 1999, between the City and DTC, as it may be amended from time to time.
"Municipal Bond Insurance Policy" means the policy issued by the Bond Insurer insuring the payment of the principal of and interest on the Bonds.

"Refunded Bonds" means the outstanding Unlimited Tax General Obligation Refunding Bonds, 1993, of the City issued pursuant to Ordinance No. 3115, the refunding of which has been provided for by this ordinance, which are more particularly described as follows:

<table>
<thead>
<tr>
<th>Maturity Date (December 1)</th>
<th>Principal Amounts</th>
<th>Interest Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>$480,000</td>
<td>5.20%</td>
</tr>
<tr>
<td>2005</td>
<td>515,000</td>
<td>5.30</td>
</tr>
<tr>
<td>2006</td>
<td>540,000</td>
<td>5.40</td>
</tr>
<tr>
<td>2007</td>
<td>530,000</td>
<td>5.50</td>
</tr>
<tr>
<td>2008</td>
<td>555,000</td>
<td>5.55</td>
</tr>
<tr>
<td>2009</td>
<td>590,000</td>
<td>5.60</td>
</tr>
</tbody>
</table>

"Refunding Plan" means:

(a) the placement of sufficient proceeds of the Bonds which, with other money legally available, if necessary, will acquire the Acquired Obligations to be deposited, with cash, if necessary, with the Refunding Trustee;

(b) the payment of the principal of and interest on the Refunded Bonds when due up to and including their respective maturities; and

(c) the payment of the costs of issuing the Bonds and the costs of carrying out the foregoing elements of the Refunding Plan.

"Refunding Trust Agreement" means a Refunding Trust Agreement between the City and the Refunding Trustee substantially in the form of that which is on file with the Finance Director and by this reference incorporated herein.

"Refunding Trustee" means U.S. Bank National Association of Seattle, Washington, serving as trustee or escrow agent or any successor trustee or escrow agent.
SECTION 2. - Authorization and Purposes of Bonds. The City shall borrow money on the credit of the City and issue negotiable taxable unlimited tax general obligation bonds evidencing that indebtedness in the amount of $3,465,000 to provide the funds to carry out the Refunding Plan. The general indebtedness to be incurred shall be within the limit of up to 2-1/2% of the value of the taxable property within the City issued pursuant to a vote of the qualified votes of the City.

SECTION 3. - Description of Bonds. The Bonds shall be in the aggregate principal amount of $3,465,000; shall be dated their date of initial delivery; shall be in the denomination of $5,000 or any integral multiple thereof; shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) payable semiannually on each June 1 and December 1, commencing December 1, 2004, to the maturity or earlier redemption of the Bonds; shall bear interest at the rate of 3.46% per annum; and shall mature on December 1, 2009. Interest on the Bonds will not be excluded from gross income of the registered owners for federal income tax purposes. $255,000 of principal of the Bonds shall constitute nonvoted debt of the City.

SECTION 4. - Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal or interest payment date.
The Bonds initially shall be registered in the name of Cede & Co., as the nominee of DTC. The Bonds so registered shall be held in fully immobilized form by DTC as depository in accordance with the provisions of the Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal of or interest on the Bonds, or any notice which is permitted or required to be given to registered owners hereunder (except such notice as is required to be given by the Bond Registrar to DTC).

For as long as any Bonds are held in fully immobilized form, DTC, its nominee or its successor depository shall be deemed to be the registered owner for all purposes hereunder and all references to registered owners, bondowners, bondholders or the like shall mean DTC or its nominee and shall not mean the owners of any beneficial interests in the Bonds. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except: (i) to any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it; (ii) to any substitute depository appointed by the City or such substitute depository’s successor; or (iii) to any person if the Bonds are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the City that it no longer wishes to continue the system of book-entry transfers through DTC or its successor (or any substitute depository or its successor), the City may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

If (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, the ownership of Bonds may be
transferred to any person as provided herein and the Bonds no longer shall be held in fully immobilized form.

**SECTION 5 - Payment of Bonds.** Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners to the Bond Registrar. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, payment of principal of and interest on the Bonds shall be made in the manner set forth in the Letter of Representations.

**SECTION 6. - Redemption Provisions and Open Market Purchase of Bonds.** The Bonds shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity or mandatory redemption dates.

The Bonds are Term Bonds and, if not purchased in the open market under the provisions set forth below, shall be called for redemption pro rata (in such manner as the Bond Registrar shall determine) at par plus accrued interest on December 1 in years and amounts as follows:
If the City shall purchase Term Bonds in the open market as set forth below, the par amount of the Term Bonds so purchased (irrespective of their actual purchase prices) shall be credited against one or more scheduled mandatory redemption amounts for those Term Bonds (as allocated by the City) beginning not earlier than 60 days after the date of the purchase, and the City shall promptly notify the Bond Registrar in writing of the manner in which the credit for the Term Bonds so purchased has been allocated.

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

The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price plus accrued interest to the date of purchase.

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

Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, selection of Bonds for redemption shall be in accordance with the Letter of Representations.

<table>
<thead>
<tr>
<th>Mandatory Redemption Years</th>
<th>Mandatory Redemption Amounts</th>
</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>$590,000</td>
</tr>
<tr>
<td>2005</td>
<td>560,000</td>
</tr>
<tr>
<td>2006</td>
<td>580,000</td>
</tr>
<tr>
<td>2007</td>
<td>560,000</td>
</tr>
<tr>
<td>2008</td>
<td>575,000</td>
</tr>
<tr>
<td>2009</td>
<td>600,000</td>
</tr>
</tbody>
</table>
SECTION 7. - Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the registered owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to Moody's Investors Service, Inc., and Standard & Poor's at their offices in New York, New York, or their successors, to Lehman Brothers Inc. at its office in Seattle, Washington, or its successor, to the Bond Insurer at its principal office in New York, New York, or its successor, to each NRMSIR or the MSRB and to such other persons and with such additional information as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, notice of redemption shall be given in accordance with the Letter of Representations.

SECTION 8. - Failure To Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Fund and the Bond has been called for payment by giving notice of that call to the registered owner of each of those unpaid Bonds.

SECTION 9. - Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to levy taxes annually without limitation as to rate or amount on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal
of and interest on the Bonds, and the full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

**SECTION 10. - Bond Fund and Deposit of Bond Proceeds.** The Bond Fund is created and established in the office of the Finance Director as a special fund designated as the Unlimited Tax General Obligation Refunding Bond Fund, 2004 (Taxable), for the purpose of paying principal of and interest on the Bonds. Accrued interest on the Bonds, if any, received from the sale and delivery of the Bonds, together with any net premium and/or contingency amounts received from Lehman Brothers Inc. that are not necessary to pay the administrative costs of the refunding and the costs of issuance and sale of the Bonds, shall be deposited into the Bond Fund. The remaining principal proceeds of the sale of the Bonds shall be deposited with the Refunding Trustee in accordance with the provisions of Section 11 herein. All taxes and other funds collected for and allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund.

**SECTION 11. - Refunding of the Refunded Bonds.**

(a) **Appointment of Refunding Trustee.** U.S. Bank National Association of Seattle, Washington, is appointed Refunding Trustee.

(b) **Use of Bond Proceeds; Acquisition of Acquired Obligations.** All of the proceeds of the sale of the Bonds, exclusive of the accrued interest thereon and any contingency amount which shall be paid into the Bond Fund, shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used, together with other funds legally available, if necessary, to discharge the obligations of the City relating to the Refunded Bonds under Ordinance No. 3115 by providing for the payment of the amounts required to be paid by the Refunding Plan. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of the Acquired Obligations, bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide, together with a beginning cash balance,
if necessary, for the payment of the amount required to be paid by the Refunding Plan. The Acquired Obligations are listed and more particularly described in Exhibit A attached to the Refunding Trust Agreement between the City and the Refunding Trustee, but are subject to substitution as set forth below. Any Bond proceeds or other money deposited with the Refunding Trustee not needed to purchase the Acquired Obligations and provide a beginning cash balance, if any, and pay the costs of issuance of the Bonds shall be returned to the City at the time of delivery of the Bonds to the initial purchaser thereof and deposited in the Bond Fund to pay interest on the Bonds on the first interest payment date.

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

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

(d) Administration of Refunding Plan. The Refunding Trustee is authorized and
directed to purchase the Acquired Obligations (or Substitute Obligations) and to make the
payments required to be made by the Refunding Plan from the Acquired Obligations (or
Substitute Obligations) and money deposited with the Refunding Trustee pursuant to this
Ordinance. All Acquired Obligations (or Substitute Obligations) and the money deposited
with the Refunding Trustee and any income therefrom shall be held irrevocably, invested
and applied in accordance with the provisions of Ordinance No. 3115, this ordinance,
chapter 39.53 RCW and other applicable statutes of the state of Washington and the
Refunding Trust Agreement. All necessary and proper fees, compensation, and expenses
of the Refunding Trustee and all other costs incidental to the setting up of the escrow to
accomplish the refunding of the Refunded Bonds and costs related to the issuance and
delivery of the Bonds, including bond printing, verification fees, bond insurance premium,
bond counsel's fees, and other related expenses, shall be paid out of the proceeds of the
Bonds.

(e) Authorization for Refunding Trust Agreement. To carry out the Refunding
Plan provided for by this ordinance, the Mayor or Finance Director of the City is authorized
and directed to execute and deliver to the Refunding Trustee a Refunding Trust
Agreement substantially in the form on file with the Finance Director and by this reference
made a part hereof setting forth the duties, obligations and responsibilities of the
Refunding Trustee in connection with the payment, redemption, and retirement of the
Refunded Bonds as provided herein and stating that the provisions for payment of the fees, compensation, and expenses of such Refunding Trustee set forth therein are satisfactory to it. Prior to executing the Refunding Trust Agreement, the Mayor or Finance Director of the City is authorized to make such changes therein that do not change its substance and purpose.

SECTION 12. - City Findings with Respect to Refunding. The City Council finds and determines that the issuance and sale of the Bonds at this time is necessary and in the best interest of the City and its taxpayers and in the public interest in order to comply with the City's covenants in the ordinances of the City authorizing the issuance and sale of the 1990 Bonds and the 1993 Bonds not to take or permit any use of proceeds of those bonds at any time during the term of those bonds that would cause interest on those bonds to be included in gross income for federal income tax purposes.

The City Council further finds and determines that the money to be deposited with the Refunding Trustee for the Refunded Bonds in accordance with Section 11 of this Ordinance will discharge and satisfy the obligations of the City under Ordinance No. 3115 with respect to the Refunded Bonds, and the pledges, charges, trusts, covenants, and agreements of the City therein made or provided for as to the Refunded Bonds, and that the Refunded Bonds shall no longer be deemed to be outstanding under Ordinance No. 3115 immediately upon the deposit of such money with the Refunding Trustee.

SECTION 13. - Form and Execution of Bonds. The Bonds shall be printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance and state law and shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:
CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered City of Kent, Washington, Unlimited Tax General Obligation Refunding Bonds, 2004 (Taxable), described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENT, Bond Registrar

By ____________________________
Authorized Signer

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

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

SECTION 14. - Bond Registrar. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's
powers and duties under this ordinance and City Ordinance No. 2418 establishing a system of registration for the City's bonds and obligations.

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

SECTION 15. - Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to the laws of the state of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, refund or defease all such then-outstanding Bonds (hereinafter collectively called the "defeased Bonds") and to pay the costs of the refunding or defeasance. If money and/or direct obligations of the United States of America maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire, refund or defease the defeased Bonds in accordance with their terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of defeased Bonds (hereinafter called the "trust account"), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. The owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. The City shall include in the refunding or defeasance plan such provisions as the City deems necessary for the random selection of any defeased Bonds that constitute less than all of a particular maturity of the Bonds, for notice of the defeasance to be given to the owners of the defeased Bonds and to such other persons as the City shall determine, and for any required replacement of Bond certificates for defeased Bonds. The defeased Bonds shall be deemed no longer outstanding, and the City may apply any money in any other fund or
account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine.

If the Bonds are registered in the name of DTC or its nominee, notice of any defeasance of Bonds shall be given to DTC in the manner prescribed in the Letter of Representations for notices of redemption of Bonds.

Notwithstanding anything in this section to the contrary, if the principal of and/or interest due on the Bonds is paid by the Bond Insurer pursuant to the Municipal Bond Insurance Policy, the Bonds shall be treated as remaining outstanding for all purposes and shall not be considered paid by the City, and the covenants, agreements and other obligations of the City to the registered owners of the Bonds shall continue to exist and run to the benefit of the Bond Insurer, and the Bond Insurer shall be subrogated to the rights of the registered owners.

SECTION 16. - Approval of Bond Purchase Agreement. Lehman Brothers Inc. of Seattle, Washington, has presented a purchase contract (the "Bond Purchase Agreement") to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Agreement, which written Bond Purchase Agreement is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that entering into the Bond Purchase Agreement is in the City's best interest and therefore accepts the offer contained therein and authorizes its execution by City officials.

The Bonds will be printed at City expense and will be delivered to the purchaser in accordance with the Bond Purchase Agreement, with the approving legal opinion of Foster Pepper & Shefelman PLLC, bond counsel of Seattle, Washington, regarding the Bonds.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to Lehman Brothers Inc. and for the proper application and use of the proceeds of the sale thereof.
SECTION 17. - Preliminary Official Statement Deemed Final. The City Council has been provided with copies of a preliminary official statement dated April 23, 2004 (the "Preliminary Official Statement"), prepared in connection with the sale of the Bonds. For the sole purpose of Lehman Brother's compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City "deems final" that Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings and other terms of the Bonds dependent on such matters.

SECTION 18. - Undertaking to Provide Continuing Disclosure. To meet the requirements of United States Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(5) (the "Rule"), as applicable to a participating underwriter for the Bonds, the City makes the following written undertaking (the "Undertaking") for the benefit of holders of the Bonds:

(a) Undertaking to Provide Annual Financial Information and Notice of Material Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent:

(i) To each nationally recognized municipal securities information repository designated by the SEC in accordance with the Rule ("NRMSIR") and to a state information depository, if any, established in the state of Washington (the "SID") annual financial information and operating data of the type included in the final official statement for the Bonds and described in subsection (b) of this section ("annual financial information");

(ii) To each NRMSIR or the Municipal Securities Rulemaking Board ("MSRB"), and to the SID, timely notice of the occurrence of any of the following events with respect to the Bonds, if material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) modifications to rights of holders of the Bonds; (7) Bond calls (other than scheduled mandatory redemptions of Term Bonds); (8)
defeasances; (9) release, substitution, or sale of property securing repayment of the Bonds; and (10) rating changes; and

(iii) To each NRMSIR or to the MSRB, and to the SID, timely notice of a failure by the City to provide required annual financial information on or before the date specified in subsection (b) of this section.

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in subsection (a) of this section:

(i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by State law, which statements shall not be audited, except, however, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (2) a statement of the City's general obligation debt service requirements; and (3) an update of the information set forth in tables 1, 3, 4, 5, 8, 9 and 10 of the Official Statement for the Bonds;

(ii) Shall be provided to each NRMSIR and the SID, not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2004, and

(iii) May be provided in a single or multiple documents, and may be incorporated by reference to other documents that have been filed with each NRMSIR and the SID, or, if the document incorporated by reference is a “final official statement” with respect to other obligations of the City, that has been filed with the MSRB.

(c) Amendment of Undertaking. The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency, NRMSIR, the SID or the MSRB, under the circumstances and in the manner permitted by the Rule.
The City will give notice to each NRMSIR or the MSRB, and the SID, of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

(d) **Beneficiaries.** The Undertaking evidenced by this section shall inure to the benefit of the City and any holder of Bonds, and shall not inure to the benefit of or create any rights in any other person.

(e) **Termination of Undertaking.** The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under the Undertaking shall terminate if those provisions of the Rule which require the City to comply with the Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of nationally recognized bond counsel or other counsel familiar with federal securities laws delivered to the City, and the City provides timely notice of such termination to each NRMSIR or the MSRB and the SID.

(f) **Remedy for Failure to Comply with Undertaking.** As soon as practicable after the City learns of any failure to comply with the Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with the Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any holder of a Bond shall be to take such actions as that holder deems necessary, including seeking an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

(g) **Designation of Official Responsible to Administer Undertaking.** The Finance Director (or such other officer of the City who may in the future perform the duties of that office) or his or her designee is authorized and directed in his or her discretion to take such further actions as may be necessary, appropriate or convenient to carry out the Undertaking set forth in this section and in accordance with the Rule, including, without limitation, the following actions:

(i) **Preparing and filing the annual financial information undertaken to be provided:**
(ii) Determining whether any event specified in subsection (a)(ii) has occurred, assessing its materiality with respect to the Bonds, and, if material, preparing and disseminating notice of its occurrence;

(iii) Determining whether any person other than the City is an “obligated person” within the meaning of the Rule with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of material events for that person in accordance with the Rule;

(iv) Selecting, engaging and compensating designated agents and consultants, including but not limited to financial advisors and legal counsel, to assist and advise the City in carrying out the Undertaking; and

(v) Effecting any necessary amendment of the Undertaking.

SECTION 19. - Bond Insurance. The District is authorized to purchase from the Bond Insurer the Municipal Bond Insurance Policy issued by the Bond Insurer insuring the prompt payment of the principal of and interest on the Bonds and agrees to the conditions for obtaining that policy, including the payment of the premium therefor. The Mayor or Finance Director is hereby authorized to execute the Bond Insurer’s Commitment for Municipal Bond Insurance.

SECTION 20: - Severability. If any one or more sections, subsections, or sentences of this ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.
SECTION 21: Effective Date. This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

FOSTER PEPPER & SHEFELMAN PLLC
Special Counsel and Bond Counsel

PASSED 4 day of May, 2004.
APPROVED: 4 day of May, 2004.
PUBLISHED: 8 day of May, 2004.

I hereby certify that this is a true copy of Ordinance No. 3689, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

UTGO Refunding Bonds, 2004