Ordinance No. 3739

(Amending or Repealing Ordinances)

CFN=104 – Finance
Passed – 4/19/2005
LTGO Refunding Bond, 2005
ORDINANCE NO. 3739

AN ORDINANCE of the City of Kent, Washington, relating to contracting indebtedness; providing for the issuance of a $7,369,000 par value Limited Tax General Obligation Refunding Bond, 2005, to provide the funds required to refund in (a) a current refunding of the City's outstanding 1996 State of Washington, Department of Ecology Loan, (b) an advance refunding of a portion of the City's outstanding Sewerage System Improvement and Refunding Revenue Bonds, 1993, (c) a current refunding of certain maturities of the City's Limited Tax General Obligation and Refunding Bonds, 1995, (d) an advance refunding of a portion of the City's outstanding Limited Tax General Obligation Various Purpose and Refunding Bonds, 2000, and (e) and paying the administrative costs of such refunding and the costs of issuance and sale of such bond; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bond 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; providing for the call, payment and redemption of the outstanding bonds and the loan to be refunded; fixing the date, form, maturity, interest rate, terms and covenants of the bond; establishing a bond fund; and approving the sale and providing for the delivery of the bond to Bank of America, N.A., of Seattle, Washington.

PASSED: April 19, 2005

This document prepared by

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RECITALS

A. The City of Kent, Washington (the "City"), authorized the Mayor to entered into a State Revolving Fund Loan Agreement between the State of Washington Department of Ecology and the City of Kent, Loan Agreement No. L9600018 with an effective date of July 1, 1995 (the "DOE Loan" or "Agreement"), in the original
principal amount of $2,119,619, as amended by Amendment No. 1 and reduced to the
original principal amount of $1,572,645.91 for the purpose of improving the water
quality of Garrison Creek by reducing streambed and bank erosion due to high water
velocities in the stream, the payment of the DOE Loan to be a claim and charge on
Gross Revenues of the Utility junior and inferior to the Senior Lien Obligations.

B. Pursuant to the Agreement, the City reserved the right to prepay the
Loan in whole or in part upon 30-days written notice and that $1,102,477.75 principal
amount remains outstanding on the DOE Loan and bears interest at the rate of 4.80%
(the “Refunded DOE Loan”).

C. The City, pursuant to Ordinance No. 3128 of the City, heretofore issued
$8,690,000 par value Sewerage System Improvement and Refunding Revenue Bonds,
1993 (the “1993 Bonds”), and by that ordinance reserved the right to redeem the 1993
Bonds prior to their maturity on any interest payment date on or after November 1,
2003, at par plus accrued interest to the date fixed for redemption.

D. Pursuant to Ordinance No. 3128, there are presently $2,520,000 par
value of 1993 Bonds maturing on November 1 of the years 2006 and 2013, and bearing
interest rates 5.30% and 5.50%, respectively (the “1993 Refunded Bonds”).

E. The City, pursuant to Ordinance No. 3209 of the City, heretofore issued
$5,420,000 par value Limited Tax General Obligation and Refunding Bonds, 1995 (the
“1995 Bonds”), and by that ordinance reserved the right to redeem the 1995 Bonds
prior to their maturity on or after December 1, 2004, at the price of 101% of par plus
accrued interest to the date fixed for redemption prior to November 30, 2005; and

F. Pursuant to Ordinance No. 3209, there are presently $1,485,000 par
value of 1995 Bonds maturing on December 1 of each of the years 2006 through 2008,
inclusive, and bearing various interest rates from 6.00% to 6.20% (the “1995 Refunded
Bonds”).
G. The City pursuant to Ordinance No. 3524 of the City, heretofore issued $20,145,000 par value Limited Tax General Obligation Various Purpose and Refunding Bonds, 2000 (the “2000 Bonds”), and by that ordinance reserved the right to redeem the 2000 Bonds prior to their maturity on or after December 1, 2010, at 101% of par plus accrued interest to the date fixed for redemption, if redeemed December 1, 2010, through November 30, 2011.

H. Pursuant to Ordinance No. 3524, there are presently outstanding $2,050,000 par value of 2000 Bonds allocable to the new money portion of the 2000 Bonds maturing on December 1, 2020, and bearing interest at the rate of 5.375% (the “2000 Refunded Bonds”).

I. After due consideration, it appears to the City Council that the Refunded DOE Loan, 1993 Refunded Bonds, 1995 Refunded Bonds and 2000 Refunded Bonds (the “Refunded Bonds”) may be refunded by the issuance and sale of a bond authorized herein so that a substantial savings will be effected by the difference between the principal and interest cost over the life of the bond authorized herein for such purpose and the principal and interest over the life of the Refunded Bonds but for such refunding, which refunding will be effected by the Refunding Plan (as defined below).

J. The City Council has determined that it is necessary to authorize the issuance of a bond to provide funds to pay the cost of carrying out the various purposes recited above and to pay the administrative costs of such refunding and costs of issuance of the authorized bond.

K. Bank of America, N.A., Seattle, Washington, has proposed to purchase the bond under the terms and conditions set forth herein.

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 have the following meanings:

"Acquired Obligations" means those United States Treasury Certificates of Indebtedness, Notes, and Bonds--State and Local Government Series and other direct, noncallable obligations of the United States of America purchased to accomplish the refunding of the Refunded Bonds as authorized by this ordinance.


"Bond Fund" means the Limited Tax General Obligation Refunding Bond Fund, 2005, created and established by this ordinance.

"Bond Registrar" means the Finance Director.

"Bond" means the Limited Tax General Obligation Refunding Bond, 2005, of the City issued pursuant to and under the authority of this ordinance to carry out the Refunding Plan.

"City" means the City of Kent, Washington.

"DOE Loan" means that certain State Revolving Fund Loan Agreement between the State of Washington Department of Ecology and the City of Kent, Loan Agreement No. L9600018 effective date of July 1, 1995, in the original principal amount of $2,119,619, as amended by Amendment No. 1 and reduced to the original principal amount of $1,572,645.91 and bearing interest at the rate of 4.80%.

"Finance Director" means the Finance Director of the City (or the successor officer to the Finance Director).
“Proposal Letter” means the Proposal Letter, together with its Summary of Terms and Conditions, of the Bank dated February 15, 2005, describing certain conditions under which the Bank proposes to purchase the Bond.

“Refunded Bonds” means, collectively, 1993 Refunded Bonds, 1995 Refunded Bonds and 2000 Refunded Bonds, the refunding of which have been provided for by this ordinance.

“Refunded DOE Loan” means the DOE Loan currently with the State of Washington Department of Ecology with a current outstanding principal amount of $1,102,477.75.

“1993 Refunded Bonds” means the outstanding $2,520,000 par value of Sewerage System Improvement and Refunding Revenue Bonds, 1993, of the City maturing in the years 2006 and 2013, issued pursuant to Ordinance No. 3128.

“1995 Refunded Bonds” means the outstanding $1,485,000 par value Limited Tax General Obligation and Refunding Bonds, 1995, of the City maturing in the years 2006 through 2008, issued pursuant to Ordinance No. 3209.

“2000 Refunded Bonds” means the outstanding $2,050,000 par value Limited Tax General Obligation Various Purpose and Refunding Bonds, 2000, of the City allocable to the new money portion of the 2000 Bonds maturing on December 1, 2020, issued pursuant to Ordinance No. 3524.

“Registered Owner” means the Bank, as registered owner of the Bond, or any subsequent owner of the Bond.

“Refunded Bond Ordinances” means Ordinances Nos. 3128, 3209 and 3524 of the City.
“Refunding Plan” means:

(a) The Finance Director’s transfer to the Refunding Trustee of the amounts on deposit in the Reserve Account and Principal and Interest Account of the City’s Sewerage System Revenue Bond Fund, 1986, allocable to the 1993 Refunded Bonds;

(b) Upon delivery of the Bond, the immediate payment by the Bank on behalf of the City, from proceeds of the Bond, of the entire outstanding principal of and accrued interest on the DOE Loan;

(c) The call, payment and redemption on November 1, 2005, of all of the 1993 Refunded Bonds at a price of par plus accrued interest to November 1, 2005;

(d) The call, payment and redemption on June 2, 2005, of all of the 1995 Refunded Bonds at a price of 101% of par plus accrued interest to June 2, 2005; and

(e) The payment of the interest on the 2000 Refunded Bonds when due up to and including December 1, 2010, and the call, payment and redemption on December 1, 2010, of all of the 2000 Refunded Bonds at a price of 101% of par; and

“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. – Debt Capacity  The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 2005 is $8,798,031,223, and the City, as of February 28, 2005, has outstanding general indebtedness evidenced by limited tax general obligation bonds, notes, leases and conditional sales contracts in the principal amount of $77,368,365 incurred within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters.
therein, and unlimited tax general obligation bonds or notes in the principal amount of $4,950,000 incurred within the limit of up to 2-1/2% of the value of the taxable property within the City for capital purposes only, issued pursuant to a vote of the qualified voters of the City, and the amount of indebtedness for which bonds are authorized herein to be issued is $7,369,000.

SECTION 3 – Authorization of Bond. The City shall borrow money on the credit of the City and issue its limited tax general obligation bond evidencing that indebtedness in the principal amount of $7,369,000 for general City purposes to carry out the Refunding Plan and to pay costs of issuance and sale of the Bond (the “costs of issuance”). The general indebtedness to be incurred shall be within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

SECTION 4 – Description of Bond. The Bond shall be in the aggregate principal amount of $7,369,000; shall be dated its date of delivery; shall mature December 1, 2020; shall be numbered R-1; shall be in fully registered form; and shall bear interest at the rate of 4.05% per annum (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, 2005, to the maturity or earlier prepayment of the Bond. Principal of the Bond shall be payable in annual installments on December 1 of each year in accordance with the following schedule:
Installment Principal

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2005</td>
<td>$155,000</td>
</tr>
<tr>
<td>2006</td>
<td>875,000</td>
</tr>
<tr>
<td>2007</td>
<td>912,000</td>
</tr>
<tr>
<td>2008</td>
<td>948,000</td>
</tr>
<tr>
<td>2009</td>
<td>441,000</td>
</tr>
<tr>
<td>2010</td>
<td>458,000</td>
</tr>
<tr>
<td>2011</td>
<td>479,000</td>
</tr>
<tr>
<td>2012</td>
<td>495,000</td>
</tr>
<tr>
<td>2013</td>
<td>721,000</td>
</tr>
<tr>
<td>2014</td>
<td>224,000</td>
</tr>
<tr>
<td>2015</td>
<td>232,000</td>
</tr>
<tr>
<td>2016</td>
<td>244,000</td>
</tr>
<tr>
<td>2017</td>
<td>266,000</td>
</tr>
<tr>
<td>2018</td>
<td>283,000</td>
</tr>
<tr>
<td>2019</td>
<td>305,000</td>
</tr>
<tr>
<td>2020</td>
<td>331,000</td>
</tr>
</tbody>
</table>

The City Council finds that fixing the above interest rate is in the best interest of the City.

Portions of the above installment payment amounts are allocated to carrying out the Refunding Plan, including a ratable share of proceeds used to pay the costs of issuance of the Bond, in accordance with the schedule attached hereto as Exhibit A and incorporated herein by reference.

**SECTION 5. Bond Registrar, Registration and Transfer of Bond** The Finance Director shall serve as Bond Registrar for the Bond. The Bond Registrar shall keep, or cause to be kept, at its office in Kent, Washington, sufficient books for the registration and transfer of the Bond (the “Bond Register”), which shall contain the name and mailing address of the Registered Owner of the Bond. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond in accordance with the provisions of the Bond and this ordinance, to serve as the City’s paying agent for the Bond and to carry out all of the Bond Registrar’s powers and duties under this ordinance. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar’s Certificate of Authentication on the Bond.
The Bond shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register. The Bond may not be assigned or transferred by the Bank, except that the Bank may assign or transfer the Bond to any successor to the business and assets of the Bank.

**SECTION 6. - Payment of Bond.** Installments of principal of and interest on the Bond shall be payable in lawful money of the United States of America and shall be paid by check, draft or warrant of the Bond Registrar mailed five days prior to the installment payment date to the Registered Owner at the address appearing on the Bond Register on the 15th day of the month preceding the installment payment date or by wire transfer or electronic debit to the Registered Owner on the installment payment date. The Registered Owner shall present and surrender the Bond at the office of the Bond Registrar in Kent, Washington, for cancellation promptly after the final installment of principal and interest on the Bond is paid by the City, whether at maturity or upon earlier prepayment and redemption. The Bond, when presented and surrendered under this section, shall be destroyed or cancelled in accordance with law.

The City and the Bond Registrar may deem and treat the Registered Owner as the absolute owner of the Bond for the purpose of receiving payment of principal and interest and for all other purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary other than proper notice of assignment or transfer.

**SECTION 7. - Optional Prepayment of Bond.** The City reserves the right and option to prepay all or any portion of the principal installments of the Bond at any time prior to its stated principal installment payment date at par plus accrued interest to the date of prepayment, subject to the payment of a potential prepayment fee as described in the applicable Proposal Letter and set forth in Exhibit B attached hereto and incorporated herein by reference. Prior written notice by the City to the Bank shall not be required. Interest on the principal amount of the Bond called for prepayment shall cease to accrue on the dated fixed for prepayment unless the principal amount called for prepayment is not paid on the prepayment date. The amounts of the semiannual...
payments on the Bond shall not be adjusted to reflect reamortization upon any such prepayment.

**SECTION 8.** *Failure To Pay Installments.* If any installment of principal of and interest on the Bond is not paid when due, or the City shall fail to comply with any other covenant of this ordinance, the interest rate on the Bond shall, at the option of the Bank, be increased by two (2) percentage points, until such default has been cured or until all principal and accrued interest of the Bond have been repaid in full.

**SECTION 9.** *Pledge of Taxes.* For as long as any principal of the Bond is outstanding, the City irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City 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 Bond, 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.** *Covenants.* The City covenants with the Bank for as long as the Bond remains outstanding that it will provide to the Bank the following:

(a) its annual state audit report within 10 days of its receipt from the State auditor.

(b) its internally prepared unaudited financial statement within 270 days of its fiscal year end.

(c) within 45 days of adoption, the City’s preliminary annual budget and final budget adoption ordinance.

(d) such other information as the Bank may reasonably request from time to time.

**SECTION 11.** *Form and Execution of Bond.* The Bond shall be prepared 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.

To be valid or obligatory for any purpose or entitled to the benefits of this ordinance, the Bond shall bear a Certificate of Authentication in the following form, manually signed by the Bond Registrar:

CERTIFICATE OF AUTHENTICATION

This Bond is the fully registered City of Kent, Washington, Limited Tax General Obligation Refunding Bond, 2005, described in the Bond Ordinance.

By

Bond Registrar

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

If any officer whose facsimile signature appears on the Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her facsimile signature is authenticated or delivered by the Bond Registrar or issued by the City, the Bond 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. The 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 Bond.

SECTION 12—Bond Fund and Deposit and Use of Bond Proceeds

The Bond Fund is created and established in the office of the Finance Director as a special fund designated the Limited Tax General Obligation Refunding Bond Fund, 2005, for the purpose of paying principal of and interest and any prepayment fee on the Bond. All taxes collected for and allocated to the payment of the principal of and interest on the Bond shall be deposited in the Bond Fund.
A sufficient amount of the proceeds of the Bond shall be electronically transferred on the delivery date of the Bond by the Bank on behalf of the City to the State of Washington, Department of Ecology, to repay and retire the DOE Loan. The remaining proceeds of the Bond shall be deposited with the Refunding Trustee as set forth in Section 13 below to carry out remaining portion of the Refunding Plan.

SECTION 13 — 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. A sufficient amount of the proceeds of the sale of the Bond, together with funds transferred from the Sewerage System Revenue Bond Fund, 1986, of the City, shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to discharge the obligations of the City relating to the Refunded Bonds under the Refunded Bond Ordinances 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 Bond shall be returned to the City at the time of delivery of the Bond to the Bank and deposited in the Bond Fund to pay interest on the Bond 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 Bond and 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 Bond or 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 dates of the Bond and the Refunded Bonds, as applicable, 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, its successor, or other nationally recognized bond counsel to the City, 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 Bond, will not cause the interest on the Bond or 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 Bond. 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 to be used for any lawful City purpose.
(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 the Refunded Bond Ordinances, 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 for the Bond 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 Bond, including bond printing, verification fees, bond counsel’s fees, and other related expenses, shall be paid out of the proceeds of the Bond.

(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 City Clerk 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 the substance and purpose thereof or that assure that the escrow provided therein and the Bond are in compliance with the requirements of federal law governing the exclusion of interest on the Bond from gross income for federal income tax purposes.
SECTION 14 – Call for Redemption of the Refunded Bonds

The City calls for redemption on the following dates, the following Refunded Bonds at the following percentage of par plus accrued interest:

<table>
<thead>
<tr>
<th>Refunded Bonds</th>
<th>Redemption Date</th>
<th>Redemption Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993 Refunded Bonds</td>
<td>November 1, 2005</td>
<td>100%</td>
</tr>
<tr>
<td>1995 Refunded Bonds</td>
<td>June 2, 2005</td>
<td>101%</td>
</tr>
<tr>
<td>2000 Refunded Bonds</td>
<td>December 1, 2010</td>
<td>101%</td>
</tr>
</tbody>
</table>

Such calls for redemption shall be irrevocable after the delivery of the Bond to the Bank. The dates on which the Refunded Bonds are herein called for redemption are the first practicable date on which each of those bonds may be called.

The proper City officials are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to the respective Refunded Bond Ordinances in order to effect the respective redemption prior to their maturity of each of the respective Refunded Bonds.

SECTION 15 – City Findings with Respect to Refunding

The City Council of the City finds and determines that the issuance and sale of the Bond at this time will effect a savings to the City and is in the best interest of the City and its tax and ratepayers and in the public interest. In making such finding and determination, the City Council has given consideration to the installment payment amounts of the Bond and the maturities of the Refunded Bonds, the costs of issuance of the Bond and the known earned income from the investment of the proceeds of the issuance and sale of the Bond and other money of the City used in the Refunding Plan pending payment and redemption of the Refunded Bonds.
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 13 of this ordinance will discharge and satisfy the obligations of the City under the Refunded Bond Ordinances 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 such ordinances immediately upon the deposit of such money with the Refunding Trustee.

SECTION 16 – Preservation of Tax Exemption for Interest on the Bond

The City covenants that it will take all actions necessary to prevent interest on the Bond from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bond or other funds of the City treated as proceeds of the Bond at any time during the term of the Bond which will cause interest on the Bond to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”), is applicable to the Bond, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Bond, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Bond from being included in gross income for federal income tax purposes. The City certifies 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.

SECTION 17. – Designation of the Bond as a “Qualified Tax-Exempt Obligation.” The City has determined and certifies that (a) the Bond is not a “private activity bond” within the meaning of Section 141 of the Code; (b) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) which the City and any entity subordinate to the City (including any entity that the City controls, that
derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Bond is issued will not exceed $10,000,000; and (c) the amount of tax-exempt obligations, including the Bond, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bond is issued does not exceed $10,000,000. The City designates the Bond as a “qualified tax-exempt obligation” for the purposes of Section 265(b)(3) of the Code.

SECTION 18. – Refunding or Defeasance of the Bond. 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 Bond, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, refund or defease such then-outstanding Bond (hereinafter collectively called the “defeased Bond”) 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 Bond in accordance with its terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of the defeased Bond (hereinafter called the “trust account”), then all right and interest of the owner of the defeased Bond in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bond shall cease and become void. The owner of the defeased Bond shall have the right to receive payment of the principal of and interest on the defeased Bond from the trust account. The defeased Bond 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 Bond to any lawful purposes as it shall determine.

SECTION 19. – Approval of Transaction. The Bank has proposed to purchase the Bond under the terms and conditions provided in the Proposal Letter, which written Proposal Letter is on file with the City and is incorporated herein by this reference. The City Council finds that accepting an offer by the Bank on substantially the same
terms and conditions as set forth in the Proposal Letter is in the City’s best interest and therefore the City authorizes the proper City officials to accept such an offer. This ordinance shall be deemed a covenant to comply with all terms and conditions set forth in the Proposal Letter.

The City shall pay or reimburse the Bank for its legal expenses as provided in the Proposal Letter, not to exceed $500 for the Bond. Banc of America Securities LLC shall be paid a structuring fee equal to .50% of the par amount of the Bond.

The Bond will be prepared at the City’s expense and will be delivered to the Bank, together with the approving legal opinion of Foster Pepper & Shefelman PLLC, municipal bond counsel of Seattle, Washington, regarding the Bond.

The proper City officials are authorized and directed to do everything necessary for the prompt sale and delivery of the Bond to the Bank and for the proper application and use of the proceeds of the sale thereof.

**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.

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

FOSTER PEPPER & SHEFELMAN PLLC
Special Counsel and Bond Counsel

PASSED: 19 day of April, 2005.

APPROVED: 19 day of April, 2005.

PUBLISHED: 23 day of April, 2005.
### EXHIBIT A

#### Allocation of Refunding Bond

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<tr>
<th>Installment Payment Years</th>
<th>1993 Refunded Bonds</th>
<th>1995 Refunded Bonds</th>
<th>2000 Refunded Bonds</th>
<th>DOE Loan</th>
<th>Total</th>
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LTGO Refunding Bond, 2005
Exhibit B
Calculation of Prepayment Fee
Prepayment Fee – Breakfunding
(Initial Cost of Funds Rate / Treasury Rate)

The Prepayment Fee shall be the sum of fees calculated separately for each Prepaid Installment, as follows:

1. Determine the amount of interest which would have accrued each month for the Prepaid Installment, had it remained outstanding until the applicable Original Payment Date at the Initial Cost of Funds Rate applicable to the Prepaid Installment;

2. Subtract from each monthly interest amount determined in (1) above, the amount of interest that would accrue for that Prepaid Installment if it were reinvested from the date of prepayment through the Original Payment Date, at the Treasury Rate;

3. If (1) above, minus (2) above, for the Prepaid Installment is greater than zero, discount the monthly difference to the date of prepayment by the Treasury Rate. The sum of the discounted monthly differences is the prepayment fee for that Prepaid Installment, plus

4. An amount equal to all costs and expenses (subject to a cap of $200) Bank reasonably expects to incur in liquidation and reinvestment of such prepaid funds.

For purposes of this Section, the capitalized terms used herein and not otherwise defined have the following meanings:

1. "Initial Cost of Funds Rate" means the fixed interest rate of interest per annum representing Borrower’s cost of purchasing funds, or the cost of purchasing and exchanging funds through swaps or other derivative products, for an amount and under terms reflecting the characteristics of the Prepaid Installment from the date the Bond shall begin to bear interest through the Maturity Date.

2. "Original Payment Dates" means the dates on which principal of the Bond would have been paid if there had been no prepayment. If a portion of the principal would have been paid later than the end of the interest period in effect at the time of prepayment, then the Original Payment Date for that portion shall be the last day of the Interest Period.

3. "Prepaid Installment" means the portion of the prepaid principal of the Bond that would have been paid on a single Original Payment Date.

4. "Treasury Rate" means the interest rate yield for U.S. Government Treasury Securities that the Bank determines could be obtained by reinvesting a specified Prepaid Installment in such securities from the date of prepayment through the Original Payment Date.

Bank may adjust the Treasury Rate and Initial Cost of Funds Rate to reflect the difference between the terms of such investments and the terms of the Bond, such as compounding, accrual basis, or other costs and terms. Each of the rates is Bank’s estimate only, and Bank is under no obligation to actually reinvest any prepayment. The rates shall be based on information from either the Telerate or Reuters information services, The Wall Street Journal, or other information sources the Bank deems appropriate.
CERTIFICATION

I, the undersigned, City Clerk of the City of Kent, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 3739 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on April 19, 2005, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 19 day of April, 2005.

CITY OF KENT, WASHINGTON

BRENDA JACOBER, City Clerk

LTGO Refunding Bond, 2005