

CITY OF LYNNWOOD, WASHINGTON  
ORDINANCE NO. 3118

AN ORDINANCE relating to the utility system of the City; specifying, adopting and ordering the carrying out of a system or plan of additions to and betterments and extensions of the system; providing for the issuance, sale and delivery of a bond anticipation note in the principal amount of not to exceed \$9,000,000 to provide interim financing with which to pay the cost of carrying out part of such plan of additions and pay the costs of issuance and sale of such note pending the issuance of utility system revenue bonds authorized herein; fixing or setting parameters with respect to certain terms and covenants of the note; appointing the City's designated representative to approve the final terms of the sale of the note; and providing for other related matters.

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Exhibit A – Description of Plan of Additions

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**LYNNWOOD**  
WASHINGTON

**ORDINANCE NO. 3118**

**AN ORDINANCE RELATING TO THE UTILITY SYSTEM OF THE CITY; SPECIFYING, ADOPTING AND ORDERING THE CARRYING OUT OF A SYSTEM OR PLAN OF ADDITIONS TO AND BETTERMENTS AND EXTENSIONS OF THE SYSTEM; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE INTERIM FINANCING WITH WHICH TO PAY THE COST OF CARRYING OUT PART OF SUCH PLAN OF ADDITIONS AND PAY THE COSTS OF ISSUANCE AND SALE OF SUCH NOTE PENDING THE ISSUANCE OF UTILITY SYSTEM REVENUE BONDS AUTHORIZED HEREIN; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS AND COVENANTS OF THE NOTE; APPOINTING THE CITY'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE OF THE NOTE; AND PROVIDING FOR OTHER RELATED MATTERS.**

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NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNNWOOD, WASHINGTON, DO ORDAIN as follows:

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

(a) **"2008 Bonds"** means the Utility System Improvement and Refunding Revenue Bonds, 2008, of the City authorized by and issued pursuant to Ordinance No. 2718.

(b) **"2010 Bonds"** means the Utility System Revenue Bonds, 2010, of the City authorized by and issued pursuant to Ordinance No. 2856.

(c) **"Annual Debt Service"** means, for any calendar year, with respect to all Parity Bonds outstanding or maturing in that year, all amounts required to be paid in that year in respect of principal of and interest on those Parity Bonds.

(d) **"Beneficial Owner"** means, with respect to the Note, the owner of any beneficial interest in the Note.

(e) **"Bond Counsel"** means the firm of Foster Pepper PLLC, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(f) **"Bonds"** means the utility system revenue bonds authorized to be issued by this Ordinance.

(g) **"City"** means the City of Lynnwood, Washington, a code city of the State of Washington.

(h) **"Code"** means the Internal Revenue Code of 1986, as amended and applicable rules and regulations promulgated thereunder.

(i) **"DTC"** means The Depository Trust Company, New York, New York, or its nominee.

(j) **"Designated Representative"** means the officer of the City appointed in Section 6 of this ordinance to serve as the City's designated representative in accordance with RCW 39.46.040(2).

(k) **"Final Terms"** means the terms and conditions for the sale of the Note, including the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(l) **"Finance Director"** means the Finance Director of the City.

(m) **"Fiscal Agent"** means the fiscal agent of the State, as the same may be designated by the State from time to time.

(n) **"Future Parity Bonds"** means all revenue bonds and other obligations of the City for borrowed money (including, without limitation, financing leases) issued or incurred after the date of the issuance of the Bonds, the payment of which constitutes a lien and charge on the Net Revenue and ULID Assessments equal in rank with the lien and charge upon such revenue and assessments required to be paid into the Bond Fund to pay and secure the payment of the principal of and interest on the Bonds and the Outstanding Parity Bonds.

(o) **"Gross Revenue"** means all of the earnings and revenues received by the City from the maintenance and operation of the System from any source whatsoever, including but not limited to: revenues from the sale, lease or furnishing of commodities, services, properties or facilities; all earnings from the investment of money in the Bond Fund, which earnings are deposited into the Principal and Interest Account; earnings from the investment of money in any maintenance fund or similar fund; all connection and capital improvement charges collected for the purpose of defraying the cost of capital facilities of the System; and withdrawals from the Rate Stabilization Fund. However, the Gross Revenue shall not include: (a) revenues from general *ad valorem* taxes; (b) principal proceeds of Parity Bonds or any other borrowings, or earnings or proceeds from any investments in a trust, defeasance or escrow fund created to defease or refund obligations relating to the System (until commingled with other earnings and revenues included in the Gross Revenue) or held in a special account for the

purpose of paying a rebate to the United States Government under the Code; (c) income and revenue which may not legally be pledged for revenue bond debt service; (d) improvement district assessments; (e) federal or state grants, and gifts from any source, allocated to capital projects; (f) payments under bond insurance or other credit enhancement policy or device; (g) insurance or condemnation proceeds used for the replacement of capital projects or equipment; (h) proceeds from the sale of System property; (i) earnings in any construction fund or bond redemption fund; (j) deposits to the Rate Stabilization Fund; or (k) revenue from any Separate System.

(p) **"Issue Date"** means the date of initial issuance and delivery of the Note to the Purchaser.

(q) **"Letter of Representations"** means the Blanket Issuer Letter of Representations between the City and DTC, dated November 25, 1996.

(r) **"MSRB"** means the Municipal Securities Rulemaking Board.

(s) **"Maturity Date"** means the date principal of and unpaid interest on the Note is due to the Purchaser, as determined by the Designated Representative.

(t) **"Net Revenue"** for any calendar year means the Gross Revenue for that calendar year less Operations and Maintenance Costs for that calendar year. In calculating Net Revenue, the City shall not take into account any non-cash gains or losses with respect to any real or personal property, investment or agreement that it may be required to recognize under generally accepted accounting principles, such as unrealized mark-to-market gains and losses.

(u) **"Note"** means the utility system revenue bond anticipation note or notes authorized by this ordinance to be issued in an aggregate principal amount of not to exceed \$9,000,000.

(v) **"Note Fund"** means the debt service fund created by Section 10 of this ordinance and established in the office of the Finance Director for the purpose of paying the principal of and interest on the Note.

(w) **"Note Purchase Contract"** means an offer to purchase the Note, setting forth certain terms and conditions of the issuance, sale and delivery of the Note, which offer is authorized to be accepted by the Designated Representative on behalf of the City, if consistent with this ordinance. In the case of a competitive sale, the official notice of sale, the Purchaser's bid and the award by the City shall constitute the Note Purchase Contract for purposes of this ordinance.

(x) **"Note Register"** means the books or records maintained by the Note Registrar for the purpose of identifying ownership of the Note.

(y) **"Note Registrar"** means the Fiscal Agent, or any note registrar selected by the City.

(z) **“Official Statement”** means an offering document, disclosure document, private placement memorandum or substantially similar disclosure document provided to purchasers and potential purchasers in connection with the initial offering of the Note in conformance with Rule 15c2-12 or other applicable regulations of the SEC.

(aa) **“Operations and Maintenance Costs”** means all reasonable expenses incurred by the City in causing the System to be operated and maintained in good repair, working order and condition, including without limitation payments of premiums for insurance on the System; costs incurred in connection with the acquisition of water or the securing of water rights; payments to any public or private entity for water service, sewage treatment and disposal service or other utility service in the event that the City combines such service into the combined utility system and enters into a contract for such service, including pro rata budget allocations or charges for the City’s administration expenses where those represent a reasonable distribution and share of actual costs; and any State-imposed taxes. Operations and Maintenance Costs shall exclude depreciation, taxes levied or imposed by the City, payments-in-lieu-of-taxes paid to the City, capital additions and capital replacements to the System.

(bb) **“Outstanding Parity Bonds”** means the 2008 Bonds and the 2010 Bonds.

(cc) **“Owner”** means, without distinction, the Registered Owner and the Beneficial Owner.

(dd) **“Parity Bonds”** means the Outstanding Parity Bonds and any Future Parity Bonds.

(ee) **“Plan of Additions”** means the system or plan of additions and improvements to and betterments and extensions of the System specified in Exhibit A and incorporated by reference.

(ff) **“Principal and Interest Account”** means the account of that name created in the Bond Fund for the purpose of securing the payment of the principal of and interest on the Parity Bonds.

(gg) **“Purchaser”** means the corporation, firm, association, partnership, trust, bank, financial institution or other legal entity or group of entities selected by the Designated Representative to serve as purchaser in a private placement, underwriter or placement agent in a negotiated sale or awarded as the successful bidder in a competitive sale of the Note.

(hh) **“Rating Agency”** means any nationally recognized rating agency then maintaining a rating on the Note at the request of the City.

(ii) **“Record Date”** means the Note Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an interest payment date. With respect to redemption of the Note prior to its maturity, the Record Date shall mean the Note Registrar’s close of business on the

date on which the Note Registrar sends the notice of redemption in accordance with Section 11.

(jj) **“Registered Owner”** means a person shown on the Note Register as the owner of the Note.

(kk) **“Rule 15c2-12”** means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(ll) **“SEC”** means the United States Securities and Exchange Commission.

(mm) **“Securities Depository”** means DTC, any successor thereto, any substitute securities depository selected by the City that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

(nn) **“Separate System”** means any water supply, sewage collection or treatment, stormwater or other utility service or facilities that may be created, acquired or constructed by the City as provided in a Parity Bond authorizing ordinance.

(oo) **“State”** means the State of Washington.

(pp) **“System”** means, for so long as any of the Parity Bonds are outstanding: (a) the combined waterworks system, system of sewerage and surface water system and all additions thereto and betterments and extensions thereof at any time made; and (b) any other system or utility that may lawfully be combined with the foregoing. The System shall not include any Separate System of the City.

(qq) **“System of Registration”** means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 810 of the City.

(rr) **“ULID”** means utility local improvement district.

(ss) **“ULID Assessments”** means all ULID assessments and installments thereof, plus interest and penalties thereon, in any ULID created to finance improvements to the System and to secure the payment of any Parity Bonds.

(tt) **“Undertaking”** means the undertaking to provide continuing disclosure entered into pursuant to Section 17 of this ordinance.

(uu) **“Utility Construction Fund”** means the fund or account of that name created and established in the Water Fund.

## **Section 2. Findings.**

(a) The City, pursuant to Ordinance No. 537, passed December 22, 1969, combined the waterworks system and system of sewerage of the City into a waterworks utility

of the City, and such combined systems are maintained and operated jointly, which from time to time requires various additions, betterments and extensions. The City, pursuant to Ordinance No. 2114, passed November 25, 1996, combined the surface water system established by Ordinance No. 1813 of the City into the waterworks utility.

(b) It is advisable for the City to acquire, construct and develop the improvements to the System further described in Section 3 of this ordinance. In determining the costs of the Plan of Additions pursuant to RCW 35.41.090, the City Council estimated that the total costs of the Plan of Additions will be at least \$50,000,000.

(c) It is advisable for the City to provide the funds for defraying a portion of the costs of the Plan of Additions from the proceeds of the sale of a short-term revenue bond anticipation note or notes pending the issuance of the Bonds. The various improvements comprising the Plan of Additions represent additions to or betterment of the City's System.

(d) The City Council deems it to be in the best interest of the City that the City borrow money and issue the Note pending the issuance of the Bonds for the purpose of providing the funds with which to pay part of the costs of carrying out the Plan of Additions specified, adopted and ordered to be carried out herein pursuant to the terms set forth in the Note Purchase Contract as approved by the City's Designated Representative consistent with this ordinance.

**Section 3. Adoption of Plan of Additions.** The City specifies, adopts and orders the carrying out of the Plan of Additions, attached as Exhibit A and incorporated by this reference, in accordance with the plans and specifications prepared by the City's engineers and consulting engineers. The City Council may modify the details of the Plan of Additions where, in its judgment, it appears advisable if such modifications do not substantially alter the purposes of that system or plan. The life of the improvements comprising the Plan of Additions is declared to be at least equal to the term of the Bonds. The estimated cost of carrying out the Plan of Additions, including the costs of issuance and sale of the Bonds, is at least \$50,000,000, which cost shall be paid from the proceeds of the Note, the Bonds and from other money available to and allocated by the City for such purpose.

**Section 4. Authorization and Description of Bonds.** For the purpose of paying the costs of the Plan of Additions, including retirement of the Note, the City shall issue the Bonds in an amount not to exceed \$36,000,000. The Bonds shall be payable from ULID Assessments and Net Revenue and other sources, if any, identified and pledged by the City by further ordinance, and shall constitute a charge and lien upon such ULID Assessments and Net Revenue prior and superior to any other lien and charge whatsoever, except such liens and charges as may be created in favor of Future Parity Bonds issued pursuant to the ordinance authorizing the issuance of the Bonds. The Bonds shall be issued in one or more series at such times as the City shall deem advisable; shall be in such denomination and form, shall be dated, shall bear such interest rate or rates, shall be payable at such time or times, 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 and covenants as hereafter shall be provided by ordinance.

**Section 5. Authorization of Note.** The City is authorized to borrow money on the credit of the City and issue the Note in the amount of not to exceed \$9,000,000 to provide interim financing for part of the costs of the Plan of Additions pending the issuance of the Bonds and to pay the costs of issuance and sale of the Note.

**Section 6. Description of the Note; Appointment of Designated Representative.** The Mayor is appointed as the Designated Representative of the City and is authorized and directed to conduct the sale of the Note in the manner and upon the terms deemed most advantageous to the City, and to approve the Final Terms of the Note, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit B, which is attached to this ordinance and incorporated by this reference.

**Section 7. Note Registrar; Registration and Transfer of Note.**

(a) *Registration of Note.* The Note shall be issued only in registered form as to both principal and interest and the ownership of the Note shall be recorded on the Note Register.

(b) *Note Registrar; Duties.* The Designated Representative shall appoint the initial Note Registrar. The Note Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Note, which shall be open to inspection by the City at all times. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Note if it is transferred or exchanged in accordance with the provisions of the Note and this ordinance, to serve as the City's paying agent for the Note and to carry out all of the Note Registrar's powers and duties under this ordinance and the System of Registration. The Note Registrar shall be responsible for its representations contained in the Note Registrar's Certificate of Authentication on the Note. The Note Registrar may become an Owner with the same rights it would have if it were not the Note 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 Owners.

(c) *Note Register; Transfer and Exchange.* The Note Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of the Note held by each Registered Owner. If the Note is surrendered to the Note Registrar may be exchanged for a Note in any Authorized Denomination of an equal aggregate principal amount and of the same interest rate and maturity. The Note may be transferred only if endorsed in the manner provided thereon and surrendered to the Note Registrar. Any exchange or transfer shall be without cost to the Owner or transferee. The Note Registrar shall not be obligated to exchange the Note or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* If the Note is to be issued in book-entry form, DTC shall be appointed as initial Securities Depository and the Note initially shall be registered in the name of Cede & Co., as the nominee of DTC. The Note registered in the name of the Securities Depository shall be held fully immobilized in book-entry only form by the Securities Depository in accordance with the provisions of the Letter of Representations. Registered ownership of the Note registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Note is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If (i) the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or (ii) the City terminates the services of the Securities Depository, the Note no longer shall be held in book-entry only form and the registered ownership of the Note may be transferred to any person as provided in this ordinance.

Neither the City nor the Note Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Note Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Note Registrar to the Securities Depository.

#### **Section 8. Form and Execution of Note.**

(a) *Form of Note; Signatures and Seal.* The Note shall be prepared in a form consistent with the provisions of this ordinance and State law. The Note shall be signed by the Mayor and the 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. If any officer whose manual or facsimile signature appears on the Note ceases to be an officer of the City authorized to sign the Note before the Note bearing his or her manual or facsimile signature is authenticated by the Note Registrar, or issued or delivered by the City, that Note 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 the Note. The Note also may be signed on behalf of the City by any person who, on the actual date of signing of the Note, is an officer of the City authorized to sign the Note, although he or she did not hold the required office on its Issue Date.

(b) *Authentication.* Only if the Note bears a Certificate of Authentication in substantially the following form, manually signed by the Note Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance: "Certificate of Authentication. This Note is the fully registered City of Lynnwood, Washington, [Name of Issue], described in the Note Ordinance." The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

**Section 9. Payment of Note.** Principal of and interest on the Note shall be payable in lawful money of the United States of America. Principal of and interest on the Note if it is registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on the Note if it is not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Note Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Note Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received on or prior to the Record Date and at the sole expense of the Registered Owner. Principal of the Note not registered in the name of the Securities Depository is payable upon presentation and surrender of the Note by the Registered Owner to the Note Registrar. The Note is not subject to acceleration under any circumstances.

**Section 10. Funds; Deposit of Note Proceeds.**

(a) *Note Fund.* The Note Fund is created as a special fund of the City for the sole purpose of paying principal of and interest on the Note. All amounts allocated to the payment of the principal of and interest on the Note shall be deposited in the Note Fund as necessary for the timely payment of amounts due with respect to the Note. The principal of and interest on the Note shall be paid out of the Note Fund. The City hereby covenants and agrees to deposit on or before the Maturity Date, proceeds of the Bonds, a refunding note, grants, if any, received by the City for the Plan of Additions, or unencumbered funds remaining in the Utility Construction Fund after completion of the Plan of Additions, and to the extent necessary, revenue of the System (on a subordinate basis to the City's Outstanding Parity Bonds) in an amount sufficient to pay the principal of and interest on the Note as the same becomes due. Until needed for that purpose, the City may invest money in the Note Fund temporarily in any legal investment, and the investment earnings shall be retained in the Note Fund and used for the purposes of that fund

(b) *Utility Construction Fund.* The Utility Construction Fund has been previously created as a fund of the City for the purpose of paying the costs of the Plan of Additions. Proceeds received from the sale and delivery of the Note shall be deposited into the Utility Construction Fund and used to pay the costs of the Plan of Additions and costs of issuance of the Note. Until needed to pay such costs, the City may invest those proceeds temporarily in any legal investment and the investment earnings shall be retained in the Utility Construction Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn from the Utility Construction Fund and used for those tax or rebate purposes.

**Section 11. Redemption Provisions.**

(a) *Optional Redemption.* The Note shall be subject to redemption at the option of the City on terms acceptable to the Designated Representative, as set forth in the Note Purchase Contract, consistent with the parameters set forth in Exhibit B.

(b) *Notice of Redemption.* If the Note is registered in the name of the Securities Depository, notice of redemption shall be given in accordance with the Letter of Representations. If the Note is not registered in the name of the Securities Depository, notice of redemption, unless waived by the Registered Owner, shall be given by the Note Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Note Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required under an Undertaking), to each Rating Agency, and to such other persons and with such additional information as the Finance Officer shall determine, but these additional mailings shall not be a condition precedent to the redemption of the Note.

(c) *Rescission of Optional Redemption Notice.* In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Note shall remain outstanding.

(d) *Effect of Redemption.* Once the Note has been called for redemption, interest shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to affect such redemption is not on deposit in the Note Fund or in a trust account established to refund or defease the Note.

**Section 12. Failure to Redeem Note.** If the Note is not redeemed when properly presented at its maturity or date fixed for redemption, the City shall be obligated to pay interest on that Note at the same rate provided in the Note from and after its maturity or date of prepayment until that Note, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Note [Fund/Account] and the Note has been called for payment by giving notice of that call to the Registered Owner thereof.

**Section 13. Covenants.** The City covenants and agrees with the owner of each of the Parity Bonds as follows:

(a) It will establish, maintain, revise as necessary, and collect such rates and charges for the services furnished by the System (including those furnished under contract with wholesale customers) as will at least equal the Coverage Requirement.

(b) It will at all times maintain and keep the System in good repair, working order and condition, and also will at all times operate such utility and the business in connection therewith in an efficient manner and at a reasonable cost.

(c) It will collect promptly all ULID Assessments. Such assessments may be used to pay the principal or interest on any Parity Bonds without those assessments being particularly allocated to the payment of principal of or interest on any particular series of Parity Bonds.

(d) It will not sell, lease, mortgage or in any manner encumber or dispose of all the property of the System unless provision is made for payment into the Bond Fund of a sum sufficient to pay the principal of and interest on all outstanding Parity Bonds. Furthermore, it will not sell, lease, mortgage, or in any manner encumber or dispose of any part of the property of the System that is used, useful and material to its operation, unless provision is made (i) for the replacement of that portion of the System, or (ii) for the payment into the Bond Fund of an amount bearing the same ratio to the par amount of outstanding Parity Bonds as the amount of Net Revenue available for debt service derived during the preceding 12 month period from that portion of the System bears to the total Net Revenue available for debt service for such bonds for the same period. Any such money so paid into the Bond Fund shall be used to retire outstanding Parity Bonds at the earliest possible date and may be invested to the same extent and in the same manner as provided for the investment of money in the Reserve Account until so used.

(e) While any of the Parity Bonds remain outstanding it will keep proper and separate accounts and records in which complete and separate entries shall be made of all transactions relating to the System, and it will furnish the owner or owners of the Parity Bonds or any subsequent owner or owners thereof, at the written request of such owner or owners, complete operating and income statements of the System in reasonable detail covering any calendar year not more than ninety days after the close of such calendar year. It will grant any owner or owners of at least 25 percent of the outstanding Parity Bonds the right at all reasonable times to inspect the entire System and all records, accounts and data relating thereto, and upon request of any owner of any of the Parity Bonds a copy of the most recently completed audit of the System accounts by the State Auditor of Washington.

(f) It will not furnish any service of the System free of charge to any customer whatsoever.

(g) It will at all times carry fire and such other forms of insurance on such of the buildings, equipment, facilities and properties of the System as are ordinarily carried on such buildings, equipment, facilities, and properties by utilities engaged in the operation of similar utility systems to the full insurable value thereof, and also will carry adequate public liability insurance (and war risk insurance if available at reasonable rates) at all times. The premiums on such insurance policies are declared to be a normal part of Operations and Maintenance Costs.

(h) It will pay all Operations and Maintenance Costs and otherwise meet the obligations of the City as herein set forth.

(i) It will not change any rate or charge for services of the System as is now established by the existing rate resolution or resolutions of the City, or any contract with a Significant Wholesale Customer, if such change would substantially reduce the annual Net Revenue below that which would have been obtained before such change unless the City has on file a certificate from an Independent Utility Consultant, stating that after such change, the Net Revenue will remain sufficient to comply with all the covenants and requirements of this ordinance, including the Coverage Requirement.

(j) Except as provided in Section 10, the City will not create any special fund or funds for the payment of the principal of and interest on any other revenue obligations which will have any priority over or which will rank on a parity with the payments required by this ordinance to be made out of the Net Revenue and ULID Assessments.

**Section 14. Flow of Funds.** The Net Revenue shall be used for the following purposes only and shall be applied in the following order of priority:

(a) To make when due the required payments into the Principal and Interest Account in respect of interest on the Parity Bonds.

(b) To make when due the required payments into the Principal and Interest Account in respect of principal of and premium, if any, on the Parity Bonds, whether at maturity or pursuant to redemption prior to maturity, and to make payments due under any reimbursement agreement with an Insurer that requires those payments to be made on a parity with the Parity Bonds.

(c) To make when due all payments required to be made into the Reserve Account, all payments required to be made under any agreement relating to the provision of Reserve Security, and all payments required to be made under any reimbursement agreement with a Reserve Security provider that requires those payments to be made on a parity with the payments required to be made into the Reserve Account.

(d) To make when due all payments required to be made under any reimbursement agreement with an Insurer other than payments to be made on a parity with the Parity Bonds, and all payments required to be made under any reimbursement agreement with a Reserve Security provider other than payments to be made on a parity with the payments to be made into the Reserve Account, in any priority not inconsistent with this ordinance that the City may hereafter establish by ordinance.

(e) To make when due the required payments to be made into any revenue bond, note warrant or other revenue obligation redemption fund, debt service account or reserve account created to pay and secure the payment of any revenue bonds, warrants, notes or other obligations of the System having a charge upon the Net Revenue junior and inferior to the charge thereon for the payment of the principal of and premium (if any), and interest on the Parity Bonds, and all payments required to be made into the Reserve Account under any

ordinance authorizing an issue of Parity Bonds, in any priority not inconsistent with this ordinance, that the City may hereafter establish by ordinance.

(f) For any other lawful System purposes, in any priority not inconsistent with this ordinance that the City may hereafter establish by ordinance.

**Section 15. Tax Covenants; Reimbursement of Original Expenditures.**

(a) *Preservation of Tax Exemption for Interest on Note.* The City covenants that it will take all actions necessary to prevent interest on the Note 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 Note or other funds of the City treated as proceeds of the Note that will cause interest on the Note to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Note, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Note.

(b) *Post-Issuance Compliance.* The Finance Director is authorized and direct to review and update the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Note from being included in gross income for federal tax purposes.

(c) *Reimbursement of Original Expenditures.* To the extent that the City has made expenditures for any construction of the Plan of Additions during the 60-day period prior to the issue date of the Note ("original expenditures"), the City declares its intention to reimburse those original expenditures from sale proceeds of the Note up to a maximum amount of \$9,000,000. Expenditures made by the City for the Plan of Additions that consist of preliminary expenditures for engineering, surveying, soil testing and similar costs incurred prior to commencement of construction of the Plan of Additions may be reimbursed from proceeds of the Note whenever such expenditures were incurred up to an amount not exceeding 20 percent of the proceeds of the total amount of Bonds expected to be issued to finance the Plan of Additions.

**Section 16. Sale and Delivery of the Note.**

(a) *Manner of Sale of Note; Delivery of Note.* The Designated Representative is authorized to sell the Note by negotiated sale or by competitive sale in accordance with a notice of sale consistent with this ordinance, based on the assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, the City's financial advisor, Bond Counsel and other advisors. In determining the method of sale of the Note and accepting the Final Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest true interest cost to the City.

(b) *Procedure for Negotiated Sale.* If the Designated Representative determines that the Note is to be sold by negotiated sale, the Designated Representative shall select one or more Purchasers with which to negotiate such sale. The Note Purchase Contract shall set forth the Final Terms. The Designated Representative is authorized to execute the Note Purchase Contract on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Procedure for Competitive Sale.* If the Designated Representative determines that the Note is to be sold by competitive sale, the Designated Representative shall cause the preparation of an official notice of note sale setting forth parameters for the Final Terms and any other bid parameters that the Designated Representative deems appropriate consistent with this ordinance. Bids for the purchase of the Note shall be received at such time or place and by such means as the Designated Representative directs. On the date and time established for the receipt of bids, the Designated Representative (or the designee of the Designated Representative) shall open bids and shall cause the bids to be mathematically verified. The Designated Representative is authorized to award, on behalf of the City, the winning bid and accept the winning bidder's offer to purchase the Note, with such adjustments to the aggregate principal amount and principal amount per maturity as the Designated Representative deems appropriate, consistent with the terms of this ordinance, and such award shall constitute the Note Purchase Contract. The Designated Representative may reject any or all bids submitted and may waive any formality or irregularity in any bid or in the bidding process if the Designated Representative deems it to be in the City's best interest to do so. If all bids are rejected, the Note may be sold pursuant to negotiated sale or in any manner provided by law as the Designated Representative determines is in the best interest of the City, within the parameters set forth in this ordinance.

(d) *Preparation, Execution and Delivery of the Note.* The Note will be prepared at City expense and will be delivered to the Purchaser in accordance with the Note Purchase Contract, together with the approving legal opinion of Bond Counsel regarding the Note.

#### **Section 17. Official Statement.**

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review and, if acceptable to him or her, approve the preliminary Official Statement prepared in connection with the sale of the Note to the public or through a Purchaser as a placement agent. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, if applicable, the Designated Representative is authorized to deem that preliminary Official Statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Note of a preliminary Official Statement that has been approved by the Designated Representative and been deemed final, if applicable, in accordance with this subsection.

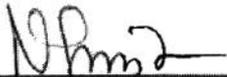
(b) **Approval of Final Official Statement.** If the Note is sold to the public, the City approves the preparation of a final Official Statement in the form of the preliminary Official Statement that has been approved and deemed final in accordance with subsection (a), with such modifications and amendments as the Designated Representative deems necessary or desirable, and further authorizes Designated Representative to execute and deliver such final Official Statement to the Purchaser if required under Rule 15c2-12. The City authorizes and approves the distribution by the Purchaser of the final Official Statement so executed and delivered to purchasers and potential purchasers of the Note.

**Section 18. Severability.** If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase or word of this ordinance.

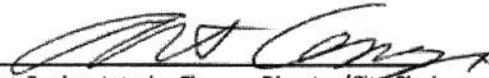
**Section 19. Effective Date.** This ordinance shall take effect and be in force from and after its passage and five days following its publication as provided by law.

PASSED by the City Council of the City of Lynnwood, Washington, at a regular open public meeting thereof on the 23<sup>rd</sup> day of March, 2015, and signed in authentication of its passage this 23<sup>rd</sup> day of March, 2015.

APPROVED:

  
\_\_\_\_\_  
Nicola Smith, Mayor

ATTEST/AUTHENTICATE:

  
\_\_\_\_\_  
Art Ceniza, Interim Finance Director/City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Foster Pepper PLLC Bond Council

FILED WITH ADMINISTRATION SERVICES: 03/24/2015  
PASSED BY THE CITY COUNCIL: 03/23/2015  
PUBLISHED: 03/28/2015  
EFFECTIVE DATE: 04/02/2015  
ORDINANCE NUMBER: 3118

## **Exhibit A**

### **Plan of Additions**

The projects contained in the City's six-year capital plan for water, sewer and surface water utilities, including the components listed below, are collectively the "Plan of Additions":

#### ***Water Improvements***

- Water Tank Modifications
- Water Meter Replacement Program
- Water Line Replacement Program
- Water Meter Reading Replacement

#### ***Sewer Improvements***

- Screw Press
- Lift Station No. 16 Facility and Forcemain Project
- Lift Station No. 4 Facility Upgrade Project
- Lift Station No. 8 Facility Upgrade and Forcemain Project
- Lift Station No. 10 Facility Upgrades
- Wastewater Treatment Plant Bar Screen Replacement Project
- Secondary Aeration System
- 204<sup>th</sup> Street SW Utility Improvements
- 60<sup>th</sup> Avenue W Sewer Rehab
- Wastewater Treatment Plant Incinerator System Upgrade Project
- Wastewater Treatment Plant Incinerator Controls and Upgrades
- Wastewater Treatment Plant Building Modifications
- Sewer Line Replacement Program

#### ***Stormwater Improvements***

- 36<sup>th</sup> Avenue W Utility Improvements
- 196<sup>th</sup> Street SW Utility Improvements
- Poplar Way Utility Improvements
- 53<sup>rd</sup> Avenue W Drainage Improvements
- Ash/Maple Floor Reduction
- Scriber Creek Corridor Flood Reduction Program

**EXHIBIT B**  
**DESCRIPTION OF THE NOTE**

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- (a) Principal Amount. The Note shall not exceed the principal amount of \$9,000,000.
- (b) Date or Dates. The Note shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Note shall be numbered in the manner and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative.
- (d) Interest Rate(s). The Note shall bear interest at any rate, calculated in any manner approved by the Designated Representative. The rate of interest for the Note may not exceed 2.00%, and the true interest cost to the City for the Note may not exceed 2.00%.
- (e) Payment Dates. Interest on the Note shall be payable on the dates and with the frequency acceptable to the Designated Representative.
- (f) Final Maturity. Principal of the Note is due on the Maturity Date approved by the Designated Representative, which shall not be later than December 31, 2015.
- (g) Redemption Rights. The Designated Representative may approve in the Note Purchase Contract provisions for the optional redemption of the Note, subject to the following:
- (1) Optional Redemption. The Note may be designated as being (A) subject to redemption at the option of the City prior to its Maturity Date on the dates and at the prices set forth in the Note Purchase Contract; or (B) not subject to redemption prior to its Maturity Date.
- (h) Price. The purchase price for the Note may not be less than 98% or more than 101% of the stated principal amount of the Note.
- (i) Other Terms and Conditions. (1) The Designated Representative may determine

whether it is in the City's best interest to provide for bond insurance or other credit enhancement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

(j) Manner of Sale:

The Designated Representative is authorized to determine the manner of sale of the Note in accordance with Section 16 of this ordinance.



On the, 23rd day of March, 2015 the City Council of the City of Lynnwood, Washington, passed ordinance 3118. A summary of the content of this ordinances, consisting of the title, provides as follows:

**ORDINANCE NO. 3118**

**AN ORDINANCE RELATING TO THE UTILITY SYSTEM OF THE CITY; SPECIFYING, ADOPTING AND ORDERING THE CARRYING OUT OF A SYSTEM OR PLAN OF ADDITIONS TO AND BETTERMENTS AND EXTENSIONS OF THE SYSTEM; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE INTERIM FINANCING WITH WHICH TO PAY THE COST OF CARRYING OUT PART OF SUCH PLAN OF ADDITIONS AND PAY THE COSTS OF ISSUANCE AND SALE OF SUCH NOTE PENDING THE ISSUANCE OF UTILITY SYSTEM REVENUE BONDS AUTHORIZED HEREIN; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS AND COVENANTS OF THE NOTE; APPOINTING THE CITY'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE OF THE NOTE; AND PROVIDING FOR OTHER RELATED MATTERS.**

The full text of this ordinance will be mailed upon request.

DATED this 28<sup>th</sup> day of March, 2015.

A handwritten signature in blue ink that reads 'D. Karber'.

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Debbie Karber, Deputy City Clerk

# Everett Daily Herald

## Affidavit of Publication

State of Washington }  
County of Snohomish } ss

Kathleen Landis being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH623539 ORDS 3117 3118 3119 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 03/28/2015 and ending on 03/28/2015 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$74.62.

Kathleen Landis

Subscribed and sworn before me on this

31 day of March,  
2015.

Debra Anne Grigg

Notary Public in and for the State of Washington.

City of Lynnwood - LEGAL ADS | 14127890  
DEBBIE KARBER

**Public Notices**

**LYNNWOOD**  
WASHINGTON

CITY OF LYNNWOOD

On the 23rd day of March, 2015 the City Council of the City of Lynnwood, Washington, passed ordinances: 3117 through 3119. A summary of the content of these ordinances, consisting of the title, provides as follows:

ORDINANCE NO. 3117

AN ORDINANCE AMENDING CHAPTER 2.48 OF THE LYNNWOOD MUNICIPAL CODE; AMENDING SECTION 2.48.185 RELATING TO PAY GRADE CLASSIFICATION FOR REGULAR EMPLOYEES OF THE CITY OF LYNNWOOD NOT OTHERWISE COVERED UNDER A COLLECTIVE BARGAINING AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE AND FOR SUMMARY PUBLICATION.

ORDINANCE NO. 3118

AN ORDINANCE RELATING TO THE UTILITY SYSTEM OF THE CITY; SPECIFYING, ADOPTING AND ORDERING THE CARRYING OUT OF A SYSTEM OR PLAN OF ADDITIONS TO AND BETTERMENTS AND EXTENSIONS OF THE SYSTEM; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE INTERIM FINANCING WITH WHICH TO PAY THE COST OF CARRYING OUT PART OF SUCH PLAN OF ADDITIONS AND PAY THE COSTS OF ISSUANCE AND SALE OF SUCH NOTE PENDING THE ISSUANCE OF UTILITY SYSTEM REVENUE BONDS AUTHORIZED HEREIN; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS AND COVENANTS OF THE NOTE; APPOINTING THE CITY'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE OF THE NOTE; AND PROVIDING FOR OTHER RELATED MATTERS.

ORDINANCE NO. 3119

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, SUPERSEDING ORDINANCES 3067, 3081 AND 3089, ESTABLISHING PROJECT FUNDING FOR ENERGY UTILITY CONSERVATION PROJECTS UTILIZING THE ENERGY SAVINGS PERFORMANCE CONTRACTING (ESPC) PROCEDURES WITH WASHINGTON STATE DEPARTMENT OF ENTERPRISE SERVICES AND AUTHORIZING EXPENDITURES IN PROJECT FUND 411; AND CONSISTENT WITH THE PROJECT FINANCIAL PLAN; AND PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND SUMMARY PUBLICATION.

The full text of this ordinance will be mailed upon request.  
DATED this 26th day of March, 2015.

Debbie Karber, Deputy City Clerk  
EDH623639

Published: March 28, 2015.

**DEBRA ANN GRIGG**  
Notary Public  
State of Washington  
My Commission Expires  
October 31, 2017



**LYNNWOOD**  
WASHINGTON

## **CERTIFICATE**

I, the undersigned, Art Ceniza, the duly appointed Acting City Clerk of the City of Lynnwood, Washington, hereby certify that the Ordinance hereto attached is a full, true and correct copy of Ordinance No. 3118 of the City of Lynnwood, Washington, entitled as follows:

**AN ORDINANCE RELATING TO THE UTILITY SYSTEM OF THE CITY; SPECIFYING, ADOPTING AND ORDERING THE CARRYING OUT OF A SYSTEM OR PLAN OF ADDITIONS TO AND BETTERMENTS AND EXTENSIONS OF THE SYSTEM; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF A BOND ANTICIPATION NOTE IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$9,000,000 TO PROVIDE INTERIM FINANCING WITH WHICH TO PAY THE COST OF CARRYING OUT PART OF SUCH PLAN OF ADDITIONS AND PAY THE COSTS OF ISSUANCE AND SALE OF SUCH NOTE PENDING THE ISSUANCE OF UTILITY SYSTEM REVENUE BONDS AUTHORIZED HEREIN; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS AND COVENANTS OF THE NOTE; APPOINTING THE CITY'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE OF THE NOTE; AND PROVIDING FOR OTHER RELATED MATTERS.**

That said ordinance was passed by the Council on March 23, 2015 of said City and was published and posted according to law; that said ordinance was duly published in the official newspaper of said City on March 28, 2015.

Art Ceniza, Acting as City Clerk of the  
City of Lynnwood WA