

ORDINANCE NO O-4719

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, AUTHORIZING THE ISSUANCE OF LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,250,000 FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND PAYING COSTS OF ISSUING THE BONDS; DELEGATING CERTAIN AUTHORITY TO APPROVE THE METHOD OF SALE AND FINAL TERMS OF THE BONDS; AND AUTHORIZING OTHER RELATED MATTERS.

1 WHEREAS, the City of Kirkland, Washington (the "City"), issued its Limited
2 Tax General Obligation Bonds, Series 2010 (Taxable Build America Bonds – Direct
3 Payment) (the "2010 Bonds") in the original aggregate principal amount of
4 \$35,345,000 pursuant to Ordinance No. 4272 (the "2010 Ordinance"); and
5

6 WHEREAS, the 2010 Bonds maturing on or after December 1, 2021 are
7 subject to redemption at the option of the City on any date on or after December 1,
8 2020, in whole or in part, at the price of par plus accrued interest, if any, to the
9 date of redemption; and
10

11 WHEREAS, the 2010 Bonds were issued as taxable Build America Bonds
12 with a direct federal interest subsidy payment to the City; and
13

14 WHEREAS, upon the legal defeasance of the 2010 Bonds, the 2010 Bonds
15 will no longer qualify as Build America Bonds, the City will no longer be able to
16 collect federal interest payment subsidies in connection with the 2010 Bonds, and
17 the defeased 2010 Bonds will be taxable obligations eligible for advance refunding
18 on a tax-exempt basis; and
19

20 WHEREAS, the Council deems it in the best interest of the City to issue
21 limited tax general obligation refunding bonds (the "Bonds") to defease and
22 redeem the outstanding 2010 Bonds and to pay costs of issuing the Bonds; and
23

24 WHEREAS, the Council wishes to delegate authority to the City Manager
25 and the Director of Finance and Administration (each, a "Designated
26 Representative"), for a limited time, to approve the method of sale and the interest
27 rates, maturity dates, redemption terms and principal maturities for the Bonds
28 within the parameters set by this ordinance to effect the refinancing; and
29

30 WHEREAS, the Bonds shall be sold by negotiated or competitive public sale
31 as set forth herein;
32

33 NOW, THEREFORE, the City Council of the City of Kirkland does ordain as
34 follows:

35
36 Section 1. Definitions. As used in this ordinance, the following words
37 and terms shall have the following meanings, unless the context or use indicates
38 another or different meaning or intent. Unless the context indicates otherwise,
39 words importing the singular number shall include the plural number and vice
40 versa.

41
42 *Acquired Obligations* means the Government Obligations acquired by the
43 City under the terms of this ordinance and the Escrow Agreement to effect the
44 defeasance and refunding of the Refunded Bonds, but only to the extent that the
45 same are acquired at Fair Market Value.

46
47 *Beneficial Owner* means any person that has or shares the power, directly
48 or indirectly, to make investment decisions concerning ownership of any Bonds
49 (including persons holding Bonds through nominees, depositories or other
50 intermediaries).

51
52 *Bond Counsel* means Pacifica Law Group LLP or an attorney at law or a
53 firm of attorneys, selected by the City, of nationally recognized standing in matters
54 pertaining to the tax exempt nature of interest on bonds issued by states and their
55 political subdivisions.

56
57 *Bond Purchase Contract* means one or more contracts, if any, for the
58 purchase of any Bonds sold by negotiated sale to the Underwriter, executed
59 pursuant to Section 10.

60
61 *Bond Register* means the registration books showing the name, address
62 and tax identification number of each Registered Owner of the Bonds, maintained
63 for the Bonds in the manner required pursuant to Section 149(a) of the Code.

64
65 *Bond Registrar* means, initially, the fiscal agent of the State, for the
66 purposes of registering and authenticating the Bonds, maintaining the Bond
67 Register, effecting transfer of ownership of the Bonds and paying interest on and
68 principal of the Bonds.

69
70 *Bonds* mean the limited tax general obligation refunding bonds authorized
71 to be issued pursuant to this ordinance.

72
73 *Call Date* means December 1, 2020.

74
75 *Certificate of Award* means one or more certificates, if any, for the purchase
76 of any Bonds sold by competitive sale awarding the Bonds to the successful bidder
77 as set forth in Section 10 of this ordinance.

78
79 *City* means the City of Kirkland, Washington, a municipal corporation duly
80 organized and existing by virtue of the laws of the State.

81

82 *City Attorney* means the duly appointed and acting City Attorney of the
83 City, including anyone acting in such capacity for the position, or the successor to
84 the duties of that office.

85
86 *City Clerk* means the duly appointed and acting City Clerk of the City or the
87 successor to the duties of that office.

88
89 *City Manager* means the duly appointed and acting City Manager of the
90 City or the successor to the duties of such office.

91
92 *Closing* means the date of issuance and delivery of the Bonds to the
93 Underwriter.

94
95 *Code* means the Internal Revenue Code of 1986 as in effect on the date of
96 issuance of the Bonds or (except as otherwise referenced herein) as it may be
97 amended to apply to obligations issued on the date of issuance of the Bonds,
98 together with applicable proposed, temporary and final regulations promulgated,
99 and applicable official public guidance published, under the Code.

100
101 *Commission* means the United States Securities and Exchange Commission.

102
103 *Continuing Disclosure Certificate* means one or more written undertakings
104 for the benefit of the owners and Beneficial Owners of the Bonds as required by
105 Section (b)(5) of the Rule.

106
107 *Council* or *City Council* means the Kirkland City Council, the general
108 legislative body of the City, as the same is duly and regularly constituted from time
109 to time.

110
111 *Debt Service Fund* means one or more funds or accounts created pursuant
112 to this ordinance for the purpose of paying debt service on the Bonds.

113
114 *Designated Representative* means the City Manager or the Director of
115 Finance and Administration, or any other officer or employee of the City appointed
116 in writing by either of them. The signature of one Designated Representative shall
117 be sufficient to bind the City.

118
119 *Director of Finance and Administration* means the City's Director of Finance
120 and Administration or the successor to the duties of the office.

121
122 *DTC* means The Depository Trust Company, New York, New York, a limited
123 purpose trust company organized under the laws of the State of New York, as
124 depository for the Bonds pursuant to Section 3 of this ordinance.

125
126 *Escrow Agent* means the trust company or state or national bank having
127 powers of a trust company selected by the City to serve as escrow agent pursuant
128 to Section 7 of this ordinance.

129

130 *Escrow Agreement* means the Escrow Deposit Agreement between the City
131 and the Escrow Agent to be dated as of the date of Closing of the Bonds.

132
133 *Escrow Fund* means the fund or account established by the Escrow Agent
134 under the Escrow Agreement executed in connection with the defeasance and
135 redemption of the Refunded Bonds.

136
137 *Fair Market Value* means the price at which a willing buyer would purchase
138 an investment from a willing seller in a bona fide, arm's-length transaction, except
139 for specified investments as described in Treasury Regulation § 1.148-5(d)(6),
140 including United States Treasury obligations, certificates of deposit, guaranteed
141 investment contracts, and investments for yield restricted defeasance escrows.
142 Fair Market Value is generally determined on the date on which a contract to
143 purchase or sell an investment becomes binding, and, to the extent required by
144 the applicable regulations under the Code, the term "investment" will include a
145 hedge.

146
147 *Federal Tax Certificate* means one or more certificates executed by the
148 Designated Representative setting forth the requirements of the Code for
149 maintaining the tax exemption of interest on the Bonds to be dated as of the date
150 of Closing for such Bonds, and attachments thereto.

151
152 *Government Obligations* means those obligations now or hereafter defined
153 as such in chapter 39.53 RCW constituting direct obligations of, or obligations the
154 principal of and interest on which are unconditionally guaranteed by, the United
155 States of America, as such chapter may be hereafter amended or restated.

156
157 *Letter of Representations* means the Blanket Issuer Letter of
158 Representations from the City to DTC.

159
160 *Mayor* means the duly elected and acting Mayor of the City or the successor
161 to the duties of such office.

162
163 *MSRB* means the Municipal Securities Rulemaking Board or any successors
164 to its functions.

165
166 *Official Statement* means the disclosure document(s) prepared and
167 delivered in connection with the issuance of the Bonds.

168
169 *Projects* mean the capital projects refinanced with proceeds of the
170 Refunded Bonds.

171
172 *Record Date* means the close of business for the Bond Registrar that is 15
173 days preceding any interest and/or principal payment or redemption date.

174
175 *Refunded Bonds* mean the outstanding 2010 Bonds.
176

177 *Registered Owner* means the person named as the registered owner of a
178 Bond in the Bond Register. For so long as the Bonds are held in book entry only
179 form, DTC or its nominee shall be deemed to be the sole Registered Owner.
180

181 *Rule* means the Commission’s Rule 15c2-12 under the Securities Exchange
182 Act of 1934, as the same may be amended from time to time.
183

184 *Sale Document* means the Bond Purchase Contract or Certificate of Award,
185 if any, executed by the Designated Representative in connection with the sale of
186 the Bonds pursuant to Section 10 of this ordinance, which shall provide for the
187 name, principal and interest payment dates and amounts, redemption/prepayment
188 rights, and other terms to describe such Bonds as determined by the Designated
189 Representative.
190

191 *State* means the State of Washington.
192

193 *2010 Bonds* mean the City’s Limited Tax General Obligation Bonds, Series
194 2010 (Taxable Build America Bonds – Direct Payment), issued pursuant to the
195 2010 Ordinance as described in the recitals of this ordinance.
196

197 *2010 Ordinance* means Ordinance No. 4272 passed by the Council on
198 November 16, 2010, authorizing the issuance of the 2010 Bonds.
199

200 *Underwriter* means any underwriter, in the case of a negotiated sale, or
201 initial purchaser, in the case of a competitive sale, for the Bonds selected pursuant
202 to Section 10.
203

204 Section 2. Findings; Purpose and Authorization of Bonds.
205

206 (a) *Findings.* The City has established a debt management policy which
207 provides that the City may issue refunding bonds when, among other reasons,
208 such refunding results in a sufficient net present value benefit after expenses.
209 Council approval is required prior to the issuance of debt under City policy and
210 State law. The Council hereby finds (1) it is in the best interest of the City and its
211 taxpayers that it issue limited tax general obligation refunding bonds to defease
212 and refund the Refunded Bonds for aggregate net present value debt service
213 savings; (2) market conditions are changing and in order to accomplish the
214 refunding authorized herein it is necessary that the Council adopt this ordinance;
215 (3) the refunding bonds authorized herein will not be issued without further
216 Council approval unless the parameters provided for in Section 10 can be satisfied;
217 and (4) the adoption of this ordinance and the authorization of the Bonds is routine
218 and consistent with City policy.
219

220 (b) *Purpose and Authorization of Bonds.* For the purpose of defeasing
221 and refunding the Refunded Bonds and paying related costs of issuance, the City
222 is hereby authorized to issue and sell limited tax general obligation refunding
223 bonds in an aggregate principal amount not to exceed \$30,250,000 (the “Bonds”).
224

225 The Bonds shall be general obligations of the City, shall be designated "City
226 of Kirkland, Washington, Limited Tax General Obligation Refunding Bonds, 2020,"
227 with any series or other designation as determined by the Designated
228 Representative. The Bonds shall be dated as of the date of Closing; shall be fully
229 registered as to both principal and interest; shall be in the denomination of \$5,000
230 each, or any integral multiple thereof, within a maturity; shall be numbered
231 separately in such manner and with any additional designation as the Bond
232 Registrar deems necessary for purposes of identification; shall bear interest from
233 their date payable on the dates and commencing as provided in the Sale
234 Document; and shall be subject to optional and/or mandatory redemption and
235 mature on the dates and in the principal amounts set forth in the Sale Document,
236 as approved and executed by the Designated Representative pursuant to Section
237 10 of this ordinance.

238
239 Section 3. Registration, Exchange and Payments.

240
241 (a) *Bond Registrar/Bond Register.* The City hereby specifies and adopts
242 the system of registration approved by the Washington State Finance Committee
243 from time to time through the appointment of a state fiscal agent. The City shall
244 cause a bond register to be maintained by the Bond Registrar. So long as any
245 Bonds remain outstanding, the Bond Registrar shall make all necessary provisions
246 to permit the exchange or registration or transfer of Bonds at its designated office.
247 The Bond Registrar may be removed at any time at the option of the Director of
248 Finance and Administration upon prior notice to the Bond Registrar and a successor
249 Bond Registrar appointed by the Director of Finance and Administration. No
250 resignation or removal of the Bond Registrar shall be effective until a successor
251 shall have been appointed and until the successor Bond Registrar shall have
252 accepted the duties of the Bond Registrar hereunder. The Bond Registrar is
253 authorized, on behalf of the City, to authenticate and deliver Bonds transferred or
254 exchanged in accordance with the provisions of such Bonds and this ordinance and
255 to carry out all of the Bond Registrar's powers and duties under this ordinance.
256 The Bond Registrar shall be responsible for its representations contained in the
257 certificate of authentication of the Bonds.

258
259 (b) *Registered Ownership.* The City and the Bond Registrar, each in its
260 discretion, may deem and treat the Registered Owner of each Bond as the absolute
261 owner thereof for all purposes (except as otherwise provided in this ordinance or
262 in the Continuing Disclosure Certificate), and neither the City nor the Bond
263 Registrar shall be affected by any notice to the contrary. Payment of any such
264 Bond shall be made only as described below, but such Bond may be transferred
265 as provided herein. All such payments made as described below shall be valid and
266 shall satisfy and discharge the liability of the City upon such Bond to the extent of
267 the amount or amounts so paid.

268
269 (c) *DTC Acceptance/Letters of Representations.* The Bonds initially
270 shall be held in fully immobilized form by DTC acting as depository. The City has
271 executed and delivered to DTC the Letter of Representations. Neither the City nor
272 the Bond Registrar shall have any responsibility or obligation to DTC participants
273 or the persons for whom they act as nominees (or any successor depository) with

274 respect to the Bonds in respect of the accuracy of any records maintained by DTC
275 (or any successor depository) or any DTC participant, the payment by DTC (or any
276 successor depository) or any DTC participant of any amount in respect of the
277 principal of or interest on Bonds, any notice which is permitted or required to be
278 given to Registered Owners under this ordinance (except such notices as shall be
279 required to be given by the City to the Bond Registrar or to DTC (or any successor
280 depository)), or any consent given or other action taken by DTC (or any successor
281 depository) as the Registered Owner. For so long as any Bonds are held by a
282 depository, DTC or its successor depository or its nominee shall be deemed to be
283 the Registered Owner for all purposes hereunder, and all references herein to the
284 Registered Owners shall mean DTC (or any successor depository) or its nominee
285 and shall not mean the owners of any beneficial interest in such Bonds.

286
287 (d) *Use of Depository.*
288

289 (1) The Bonds shall be registered initially in the name of
290 "Cede & Co.", as nominee of DTC, with one Bond maturing on each of the maturity
291 dates for the Bonds in a denomination corresponding to the total principal therein
292 designated to mature on such date. Registered ownership of such immobilized
293 Bonds, or any portions thereof, may not thereafter be transferred except (A) to
294 any successor of DTC or its nominee, provided that any such successor shall be
295 qualified under any applicable laws to provide the service proposed to be provided
296 by it; (B) to any substitute depository appointed by the Director of Finance and
297 Administration pursuant to subsection (2) below or such substitute depository's
298 successor; or (C) to any person as provided in subsection (4) below.
299

300 (2) Upon the resignation of DTC or its successor (or any
301 substitute depository or its successor) from its functions as depository or a
302 determination by the Director of Finance and Administration to discontinue the
303 system of book entry transfers through DTC or its successor (or any substitute
304 depository or its successor), the Director of Finance and Administration may
305 hereafter appoint a substitute depository. Any such substitute depository shall be
306 qualified under any applicable laws to provide the services proposed to be provided
307 by it.
308

309 (3) In the case of any transfer pursuant to clause (A) or (B) of
310 subsection (1) above, the Bond Registrar shall, upon receipt of all outstanding
311 Bonds, together with a written request on behalf of the Director of Finance and
312 Administration, issue a single new Bond for each maturity then outstanding,
313 registered in the name of such successor or such substitute depository, or their
314 nominees, as the case may be, all as specified in such written request of the
315 Director of Finance and Administration.
316

317 (4) In the event that (A) DTC or its successor (or substitute
318 depository or its successor) resigns from its functions as depository, and no
319 substitute depository can be obtained, or (B) the Director of Finance and
320 Administration determines that it is in the best interest of the Beneficial Owners of
321 the Bonds that such owners be able to obtain physical bond certificates, the
322 ownership of such Bonds may then be transferred to any person or entity as herein

323 provided, and shall no longer be held by a depository. The Director of Finance and
324 Administration shall deliver a written request to the Bond Registrar, together with
325 a supply of physical Bonds, to issue Bonds as herein provided in any authorized
326 denomination. Upon receipt by the Bond Registrar of all then outstanding Bonds
327 together with a written request on behalf of the Director of Finance and
328 Administration to the Bond Registrar, new Bonds shall be issued in the appropriate
329 denominations and registered in the names of such persons as are requested in
330 such written request.

331
332 (e) *Registration of Transfer of Ownership or Exchange; Change in*
333 *Denominations.* The transfer of any Bond may be registered and Bonds may be
334 exchanged, but no transfer of any such Bond shall be valid unless it is surrendered
335 to the Bond Registrar with the assignment form appearing on such Bond duly
336 executed by the Registered Owner or such Registered Owner's duly authorized
337 agent in a manner satisfactory to the Bond Registrar. Upon such surrender, the
338 Bond Registrar shall cancel the surrendered Bond and shall authenticate and
339 deliver, without charge to the Registered Owner or transferee therefor, a new
340 Bond(s) (or Bonds at the option of the new Registered Owner) of the same date,
341 maturity and interest rate and for the same aggregate principal amount in any
342 authorized denomination, naming as Registered Owner the person or persons
343 listed as the assignee on the assignment form appearing on the surrendered Bond,
344 in exchange for such surrendered and cancelled Bond. Any Bond may be
345 surrendered to the Bond Registrar and exchanged, without charge, for an equal
346 aggregate principal amount of Bonds of the same date, maturity, and interest rate,
347 in any authorized denomination. The Bond Registrar shall not be obligated to
348 register the transfer of or to exchange any Bond during the 15 days preceding any
349 principal payment or redemption date.

350
351 (f) *Bond Registrar's Ownership of Bonds.* The Bond Registrar may
352 become the Registered Owner of any Bond with the same rights it would have if
353 it were not the Bond Registrar, and to the extent permitted by law, may act as
354 depository for and permit any of its officers or directors to act as a member of, or
355 in any other capacity with respect to, any committee formed to protect the right
356 of the Registered Owners or Beneficial Owners of Bonds.

357
358 (g) *Place and Medium of Payment.* Both principal of and interest on the
359 Bonds shall be payable in lawful money of the United States of America. Interest
360 on the Bonds shall be calculated on the basis of a year of 360 days and twelve
361 30-day months. For so long as all Bonds are held by a depository, payments of
362 principal thereof and interest thereon shall be made as provided in accordance
363 with the operational arrangements of DTC referred to in the Letter of
364 Representations. In the event that the Bonds are no longer held by a depository,
365 interest on the Bonds shall be paid by check or draft mailed to the Registered
366 Owners at the addresses for such Registered Owners appearing on the Bond
367 Register on the Record Date, or upon the written request of a Registered Owner
368 of more than \$1,000,000 of Bonds (received by the Bond Registrar at least by the
369 Record Date), such payment shall be made by the Bond Registrar by wire transfer
370 to the account within the United States designated by the Registered Owner.

371 Principal of the Bonds shall be payable upon presentation and surrender of such
372 Bonds by the Registered Owners at the designated office of the Bond Registrar.

373
374 If any Bond shall be duly presented for payment and funds have not been
375 duly provided by the City on such applicable date, then interest shall continue to
376 accrue thereafter on the unpaid principal thereof at the rate stated on such Bonds
377 until it is paid.

378
379 Section 4. Redemption and Purchase of Bonds.

380
381 (a) *Redemption of Bonds.* The Bonds shall be subject to mandatory
382 redemption to the extent, if any, as set forth in the applicable Sale Document and
383 as approved by the Designated Representative pursuant to Section 10. The Bonds
384 shall be subject to optional redemption and/or prepayment on the dates, at the
385 prices and under the terms set forth in the applicable Sale Document approved by
386 the Designated Representative pursuant to Section 10.

387
388 (b) *Purchase of Bonds.* The City reserves the right to accept an offer to
389 purchase any of the Bonds at any time at a price deemed reasonable by the
390 Designated Representative.

391
392 (c) *Selection of Bonds for Redemption.* If the Bonds are held in
393 book-entry only form, the selection of particular Bonds within a maturity to be
394 redeemed shall be made in accordance with the operational arrangements then in
395 effect at DTC. If the Bonds are no longer held by a depository, the selection of
396 such Bonds to be redeemed and the surrender and reissuance thereof, as
397 applicable, shall be made as provided in the following provisions of this
398 subsection (c). If the City redeems at any one time fewer than all of the Bonds
399 having the same maturity date, the particular Bonds or portions of Bonds of such
400 maturity to be redeemed shall be selected by lot (or in such manner determined
401 by the Bond Registrar) in increments of \$5,000. In the case of an Bond of a
402 denomination greater than \$5,000, the City and the Bond Registrar shall treat each
403 Bond as representing such number of separate Bonds each of the denomination
404 of \$5,000 as is obtained by dividing the actual principal amount of such Bond by
405 \$5,000. In the event that only a portion of the principal sum of a Bond is redeemed,
406 upon surrender of such Bond at the designated office of the Bond Registrar there
407 shall be issued to the Registered Owner, without charge therefor, for the then
408 unredeemed balance of the principal sum thereof, at the option of the Registered
409 Owner, a Bond or Bonds of like maturity and interest rate in any of the
410 denominations herein authorized.

411
412 (d) *Notice of Redemption or Prepayment.*

413
414 (1) Official Notice. For so long as the Bonds are held by a
415 depository, notice of redemption (which notice may be conditional) shall be given
416 in accordance with the operational arrangements of DTC as then in effect, and
417 neither the City nor the Bond Registrar will provide any notice of redemption to
418 any Beneficial Owners. Thereafter (if the Bonds are no longer held in uncertificated
419 form), notice of redemption shall be given in the manner hereinafter provided.

420 Unless waived by any owner of Bonds to be redeemed, official notice of any such
421 redemption shall be given by the Bond Registrar on behalf of the City by mailing a
422 copy of an official redemption notice by first class mail at least 20 days and not
423 more than 60 days prior to the date fixed for redemption to the Registered Owner
424 of the Bond or Bonds to be redeemed at the address shown on the Bond Register
425 or at such other address as is furnished in writing by such Registered Owner to
426 the Bond Registrar.

427

428 All official notices of redemption shall be dated and shall state:

429

430 (A) the redemption date,

431

432 (B) the redemption price,

433

434 (C) if fewer than all outstanding Bonds are to be
435 redeemed, the identification by maturity (and, in the case of partial redemption,
436 the respective principal amounts) of the Bonds to be redeemed,

437

438 (D) any conditions to redemption,

439

440 (E) that (unless such notice is conditional) on the
441 redemption date the redemption price will become due and payable upon each
442 such Bond or portion thereof called for redemption, and that interest thereon shall
443 cease to accrue from and after said date, and

444

445 (F) the place where such Bonds are to be surrendered
446 for payment of the redemption price, which place of payment shall be the
447 designated office of the Bond Registrar.

448

449 On or prior to any redemption date, unless any condition to such
450 redemption has not been satisfied or waived or notice of such redemption has
451 been rescinded, the City shall deposit with the Bond Registrar an amount of money
452 sufficient to pay the redemption price of all the Bonds or portions of Bonds which
453 are to be redeemed on that date. The City retains the right to rescind any
454 redemption notice and the related optional redemption of Bonds by giving notice
455 of rescission to the affected registered owners at any time on or prior to the
456 scheduled redemption date. Any notice of optional redemption that is so rescinded
457 shall be of no effect, and the Bonds for which the notice of optional redemption
458 has been rescinded shall remain outstanding.

459

460 (2) Effect of Notice; Bonds Due. If notice of redemption has
461 been given and not rescinded or revoked, or if the conditions set forth in a
462 conditional notice of redemption have been satisfied or waived, the Bonds or
463 portions of Bonds to be redeemed shall, on the redemption date, become due and
464 payable at the redemption price therein specified, and, if the Bond Registrar then
465 holds sufficient funds to pay such Bonds at the redemption price, then from and
466 after such date such Bonds or portions of Bonds shall cease to bear interest. Upon
467 surrender of such Bonds for redemption in accordance with said notice, such Bonds
468 shall be paid by the Bond Registrar at the redemption price. Installments of interest

469 due on or prior to the redemption date shall be payable as herein provided for
470 payment of interest. All Bonds which have been redeemed shall be canceled by
471 the Bond Registrar and shall not be reissued.

472
473 (3) Additional Notice. If addition to the foregoing notice, further
474 notice shall be given by the City as set out below, but no defect in said further
475 notice nor any failure to give all or any portion of such further notice shall in any
476 manner defeat the effectiveness of a call for redemption if notice thereof is given
477 as above prescribed. Each further notice of redemption given hereunder shall
478 contain the information required above for an official notice of redemption plus
479 (A) the CUSIP numbers of all Bonds being redeemed; (B) the date of issue of the
480 Bonds as originally issued; (C) the rate of interest borne by each Bond being
481 redeemed; (D) the maturity date of each Bond being redeemed; and (E) any other
482 descriptive information needed to identify accurately the Bonds being redeemed.
483 Each further notice of redemption may be sent at least 20 days before the
484 redemption date to each party entitled to receive notice pursuant to the Continuing
485 Disclosure Certificate and with such additional information as the City shall deem
486 appropriate, but such mailings shall not be a condition precedent to the redemption
487 of such Bonds.

488
489 (4) Amendment of Notice Provisions. The foregoing notice
490 provisions of this Section 4, including but not limited to the information to be
491 included in redemption notices and the persons designated to receive notices, may
492 be amended by additions, deletions and changes in order to maintain compliance
493 with duly promulgated regulations and recommendations regarding notices of
494 redemption of municipal securities.

495
496 Section 5. Form of Bonds. The Bonds shall be in substantially the form
497 set forth in **Exhibit A**, which is incorporated herein by this reference.

498
499 Section 6. Execution of Bonds. The Bonds shall be executed on behalf
500 of the City with the manual or facsimile signatures of the Mayor and City Clerk of
501 the City and the seal of the City shall be impressed, imprinted or otherwise
502 reproduced thereon.

503
504 In case either of the officers who shall have executed the Bonds shall cease
505 to be an officer or officers of the City before the Bonds so signed shall have been
506 authenticated or delivered by the Bond Registrar, or issued by the City, such Bonds
507 may nevertheless be authenticated, delivered and issued and upon such
508 authentication, delivery and issuance, shall be as binding upon the City as though
509 those who signed the same had continued to be such officers of the City. Any Bond
510 may be signed and attested on behalf of the City by such persons who at the date
511 of the actual execution of such Bond, are the proper officers of the City, although
512 at the original date of such Bond any such person shall not have been such officer
513 of the City.

514
515 Only such Bonds as shall bear thereon a Certificate of Authentication in the
516 form set forth in **Exhibit A**, manually executed by the Bond Registrar, shall be
517 valid or obligatory for any purpose or entitled to the benefits of this ordinance.

518 Such Certificate of Authentication shall be conclusive evidence that the Bonds so
519 authenticated have been duly executed, authenticated and delivered hereunder
520 and are entitled to the benefits of this ordinance.

521
522 Section 7. Refunding Plan; Application of Bond Proceeds.

523
524 (a) *Plan of Refunding.* The City proposes to defease and refund the
525 Refunded Bonds as set forth herein. A portion of the proceeds of the Bonds shall
526 be deposited with the Escrow Agent pursuant to the Escrow Agreement to be used
527 immediately upon receipt thereof to defease the Refunded Bonds as authorized by
528 the 2010 Ordinance and to pay costs of issuance and administrative costs of the
529 refunding.

530
531 The proceeds of the Bonds deposited with the Escrow Agent shall be used
532 to defease the Refunded Bonds and discharge the obligations thereon by the
533 purchase of Acquired Obligations bearing such interest and maturing as to principal
534 and interest in such amounts and at such times which, together with any necessary
535 beginning cash balance, will provide for the payment of:

536
537 (1) interest on the Refunded Bonds as such becomes due on
538 and prior to the Call Date; and

539
540 (2) the principal amount due and the redemption price (100%
541 of the principal amount) of the Refunded Bonds on the Call Date.

542
543 Such Acquired Obligations shall be purchased at a yield not greater than
544 the yield permitted by the Code and regulations relating to acquired obligations in
545 connection with refunding bond issues.

546
547 (b) *Escrow Agent; Escrow Agreement.* The Designated Representative
548 is hereby authorized to solicit proposals from and to select an Escrow Agent. A
549 beginning cash balance, if any, and the Acquired Obligations shall be deposited
550 irrevocably with the Escrow Agent in an amount sufficient to defease and/or
551 redeem the Refunded Bonds. The proceeds of the Bonds remaining after
552 acquisition of the Acquired Obligations and provision for the necessary beginning
553 cash balance shall be used to pay expenses of the acquisition and safekeeping of
554 the Acquired Obligations and costs of issuance of the Bonds and the administrative
555 costs of the refunding. In order to carry out the purposes of this section, the
556 Designated Representative is authorized and directed to execute and deliver the
557 Escrow Agreement to the Escrow Agent.

558
559 (c) *Call for Redemption of 2010 Bonds.* The City hereby sets aside
560 available funds of the City and sufficient funds out of the purchase of Acquired
561 Obligations from proceeds of the Bonds to make the payments described above.
562 The City further calls the callable Refunded Bonds for redemption on the Call Date
563 in accordance with the provisions of the 2010 Ordinance authorizing the
564 redemption and retirement of the 2010 Bonds prior to their fixed maturities. Said
565 defeasance and call for redemption of the Refunded Bonds shall be irrevocable
566 after the issuance of the Bonds and delivery of cash and/or Acquired Obligations

567 to the Escrow Agent. The Escrow Agent is hereby authorized and directed to
568 provide for the giving of notices of defeasance and/or redemption of the Refunded
569 Bonds in accordance with the applicable provisions of the 2010 Ordinance. The
570 costs of publication of such notices shall be an expense of the City.
571

572 The Escrow Agent is hereby authorized and directed to pay to the paying
573 agent for the Refunded Bonds, sums sufficient to pay, when due, the payments
574 specified in this section. All such sums shall be paid from the moneys and Acquired
575 Obligations deposited with the Escrow Agent, and the income therefrom and
576 proceeds thereof. All such sums so paid shall be credited to the Refunding Account
577 (which is hereby authorized to be created) or other funds created under the Escrow
578 Agreement. All moneys and Acquired Obligations deposited with the Escrow Agent
579 and any income therefrom shall be held, invested (but only at the direction of the
580 Director of Finance and Administration) and applied in accordance with the
581 provisions of this ordinance, the Escrow Agreement, and with the laws of the State
582 for the benefit of the City and owners of the Refunded Bonds.
583

584 The City will take such actions as are found necessary to see that all
585 necessary and proper fees, compensation and expenses of the Escrow Agent for
586 the Refunded Bonds shall be paid when due.
587

588 Section 8. Tax Covenants. The City will take all actions necessary to
589 assure the exclusion of interest on the Bonds from the gross income of the owners
590 of the Bonds to the same extent as such interest is permitted to be excluded from
591 gross income under the Code as in effect on the date of issuance of the Bonds,
592 including but not limited to the following:
593

594 (a) *Private Activity Bond Limitation.* The City will assure that the
595 proceeds of the Bonds are not so used as to cause the Bonds to satisfy the private
596 business tests of Section 141(b) of the Code or the private loan financing test of
597 Section 141(c) of the Code.
598

599 (b) *Limitations on Disposition of the Projects.* The City will not sell or
600 otherwise transfer or dispose of (1) any personal property components of the
601 projects refinanced with proceeds of the Bonds other than in the ordinary course
602 of an established government program under Treasury Regulation § 1.141-2(d)(4)
603 or (2) any real property components of such projects, unless it has received an
604 opinion of nationally recognized Bond Counsel to the effect that such disposition
605 will not adversely affect the treatment of interest on the Bonds as excludable from
606 gross income for federal income tax purposes.
607

608 (c) *Federal Guarantee Prohibition.* The City will not take any action or
609 permit or suffer any action to be taken if the result of such action would be to
610 cause any of the Bonds to be "federally guaranteed" within the meaning of Section
611 149(b) of the Code.
612

613 (d) *Rebate Requirement.* The City will take any and all actions
614 necessary to assure compliance with Section 148(f) of the Code, relating to the

615 rebate of excess investment earnings, if any, to the federal government, to the
616 extent that such section is applicable to the Bonds.

617
618 (e) *No Arbitrage.* The City will not take, or permit or suffer to be taken,
619 any action with respect to the proceeds of the Bonds which, if such action had
620 been reasonably expected to have been taken, or had been deliberately and
621 intentionally taken, on the date of issuance of the Bonds would have caused the
622 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

623
624 (f) *Registration Covenant.* The City will maintain a system for recording
625 the ownership of each Bond that complies with the provisions of Section 149 of
626 the Code until all Bonds have been surrendered and canceled.

627
628 (g) *Record Retention.* The City will retain its records of all accounting
629 and monitoring it carries out with respect to the Bonds for at least three years
630 after the Bonds mature or are redeemed (whichever is earlier); however, if the
631 Bonds are redeemed and refunded, the City will retain its records of accounting
632 and monitoring at least three years after the earlier of the maturity or redemption
633 of the obligations that refunded the Bonds.

634
635 (h) *Compliance with Federal Tax Certificate.* The City will comply with
636 the provisions of the Federal Tax Certificate with respect to the Bonds, which are
637 incorporated herein as if fully set forth herein. The covenants of this section will
638 survive payment in full or defeasance of the Bonds.

639
640 Section 9. Debt Service Fund and Provision for Tax Levy Payments.
641 The City hereby authorizes the creation of a fund or account to be used for the
642 payment of debt service on the Bonds (the "Debt Service Fund"). No later than the
643 date each payment of principal of or interest on the Bonds becomes due, the City
644 shall transmit sufficient funds, from the Debt Service Fund or from other legally
645 available sources, to the Bond Registrar for the payment of such principal or
646 interest. Money in the Debt Service Fund may be invested in legal investments for
647 City funds, but only to the extent that the same are acquired, valued and disposed
648 of at Fair Market Value. Any interest or profit from the investment of such money
649 shall be deposited in the Debt Service Fund.

650
651 The City hereby irrevocably covenants and agrees for as long as any of the
652 Bonds are outstanding and unpaid that each year it shall include in its budget and
653 levy an *ad valorem* tax upon all the property within the City subject to taxation in
654 an amount that will be sufficient, together with all other revenues and money of
655 the City legally available for such purposes, to pay the principal of and interest on
656 the Bonds as the same shall become due.

657
658 The City hereby irrevocably pledges that the annual tax provided for herein
659 to be levied for the payment of such principal and interest shall be within and as
660 a part of the property tax levy permitted to cities without a vote of the electorate,
661 and that a sufficient portion of each annual levy to be levied and collected by the
662 City prior to the full payment of the principal of and interest on the Bonds will be
663 and is hereby irrevocably set aside, pledged and appropriated for the payment of

664 the principal of and interest on the Bonds. The full faith, credit and resources of
665 the City are hereby irrevocably pledged for the annual levy and collection of such
666 taxes and for the prompt payment of the principal of and interest on the Bonds
667 when due.

668
669 Section 10. Sale of Bonds.

670
671 (a) *Bond Sale.* The Council has determined that it would be in the best
672 interest of the City to delegate to the Designated Representative for a limited time
673 the authority to determine the method of sale for the Bonds in one or more series
674 and to approve the final interest rates, maturity dates, redemption terms and
675 principal maturities for the Bonds of each series.

676
677 The Designated Representative is hereby authorized to approve the
678 issuance of the Bonds in one or more series and to approve whether any series of
679 the Bonds shall be sold to an Underwriter through a competitive public sale or a
680 negotiated public sale, as set forth below.

681
682 (b) *Negotiated Bond Sale.* If the Designated Representative determines
683 that a series of the Bonds are to be sold by negotiated public sale, the Designated
684 Representative shall solicit proposals from one or more qualified underwriting firms
685 and shall select the Underwriter that submits the proposal that is in the best
686 interest of the City. Such series of Bonds shall be sold to the Underwriter pursuant
687 to the terms of a Bond Purchase Contract.

688
689 (c) *Competitive Sale.* If the Designated Representative determines that
690 one or more series the Bonds are to be sold at a competitive public sale, the
691 Designated Representative shall: (1) establish the date of the public sale; (2)
692 establish the criteria by which the successful bidder will be determined; (3) request
693 that a good faith deposit in an amount not less than one percent of the principal
694 amount of the offering accompany each bid; (4) cause notice of the public sale to
695 be given; and (5) provide for such other matters pertaining to the public sale as
696 he or she deems necessary or desirable. Such Bonds shall be sold to the
697 Underwriter pursuant to the terms of a Certificate of Award.

698
699 (d) *Sale Parameters.* Subject to the terms and conditions set forth in
700 this Section 10, the Designated Representative is hereby authorized to approve
701 the method of sale and the final interest rates, aggregate principal amount,
702 principal maturities, and redemption rights for any series of the Bonds in the
703 manner provided hereafter so long as:

704
705 (1) the aggregate principal amount of all Bonds does not exceed
706 \$30,250,000,

707
708 (2) the final maturity date for the Bonds is no later than
709 December 1, 2040,

710
711 (3) the Bonds of each series are sold for a price that results in
712 a minimum aggregate net present value debt service savings over the Refunded

713 Bonds (calculated by deducting scheduled federal subsidy payments with respect
714 to the Refunded Bonds from annual debt service and assuming continued
715 sequestration of such payments) of at least 4.00%,
716

717 (4) the true interest cost for the Bonds of a series (in the
718 aggregate) does not exceed 3.25%, and
719

720 (5) the aggregate purchase price for the Bonds of a series shall
721 not be less than 95% of the aggregate stated principal amount of the Bonds.
722

723 Subject to the terms and conditions set forth in this section, the Designated
724 Representative is hereby authorized to execute the appropriate Sale Document on
725 behalf of the City.
726

727 Following the execution of the applicable Sale Document, the Designated
728 Representative shall provide a report to the Council describing the final terms of
729 the Bonds approved pursuant to the authority delegated in this section. The
730 authority granted to the Designated Representative by this Section 10 to execute
731 any Sale Document shall expire one year (365 days) after the effective date of this
732 ordinance. If a Sale Document for the Bonds has not been executed by such date,
733 the authorization for the issuance of such Bonds shall be rescinded, and such
734 Bonds shall not be issued nor their sale approved unless such Bonds shall have
735 been re-authorized by ordinance of the Council. The ordinance re-authorizing the
736 issuance and sale of such Bonds may be in the form of a new ordinance repealing
737 this ordinance in whole or in part or may be in the form of an amendatory
738 ordinance approving a Sale Document or establishing terms and conditions for the
739 authority delegated under this Section 10.
740

741 (e) *Delivery of Bonds; Documentation.* The proper officials of the City,
742 including the Designated Representative, the City Manager, the Director of Finance
743 and Administration, the Mayor and the City Clerk, are authorized and directed to
744 undertake all action necessary for the prompt execution and delivery of the Bonds
745 to the Underwriter and further to execute all closing certificates and documents
746 required to effect the closing and delivery of the Bonds in accordance with the
747 terms of the Sale Document. Such documents may include, but are not limited to,
748 documents related to a municipal bond insurance policy delivered by an insurer to
749 insure the payment when due of the principal of and interest on all or a portion of
750 the Bonds as provided therein, if such insurance is determined by the Designated
751 Representative to be in the best interest of the City.
752

753 Section 11. Preliminary and Final Official Statements. The Director of
754 Finance and Administration and the City Manager are each hereby authorized to
755 deem final the preliminary Official Statement(s) relating to the Bonds for the
756 purposes of the Rule. The Director of Finance and Administration and the City
757 Manager are each further authorized to approve for purposes of the Rule, on behalf
758 of the City, the final Official Statement(s) relating to the issuance and sale of the
759 Bonds and the distribution of the final Official Statement pursuant thereto with
760 such changes, if any, as may be deemed to be appropriate.

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Section 12. Undertaking to Provide Ongoing Disclosure. The City covenants to execute and deliver at the time of Closing of the Bonds a Continuing Disclosure Certificate. The Designated Representative is hereby authorized to execute and deliver a Continuing Disclosure Certificate upon the issuance, delivery and sale of the Bonds with such terms and provisions as such officer shall deem appropriate and in the best interests of the City.

Section 13. Defeasance. In the event that money and/or noncallable Government Obligations, maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire part or all of the Bonds in accordance with their terms, are set aside in a special account of the City to effect such redemption and retirement, and such money and the principal of and interest on such Government Obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Debt Service Fund for the payment of the principal of and interest on the Bonds so provided for, and such Bonds shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive the money so set aside and pledged, and such Bonds shall be deemed not to be outstanding hereunder. The City shall give or cause to be given written notice of defeasance in accordance with the Continuing Disclosure Certificate.

Section 14. Lost, Stolen or Destroyed Bonds. In case any Bond or Bonds shall be lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new Bond or Bonds of like date, number and tenor to the Registered Owner thereof upon the Registered Owner's paying the expenses and charges of the City and the Bond Registrar in connection therewith and upon his/her filing with the City evidence satisfactory to the City that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the City and/or the Bond Registrar with indemnity satisfactory to the City and the Bond Registrar.

Section 15. Severability; Ratification. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Bonds. All acts taken pursuant to the authority granted in this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 16. Corrections by Clerk. Upon approval of the City Attorney and Bond Counsel and without further action of the Council, the City Clerk is hereby authorized to make necessary corrections to this ordinance, including but not limited to the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; ordinance numbering and section/subsection numbering; and other similar necessary corrections.

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Section 17. Effective Date of Ordinance. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication of a summary of this ordinance in accordance with Kirkland Municipal Code 1.08.017.

Passed by majority vote of the Kirkland City Council in open meeting this 7th day of April, 2020.

Signed in authentication thereof this ____ day of ____, 2020

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Pacifica Law Group LLP, Bond Counsel

PUBLICATION SUMMARY
OF ORDINANCE NO. 4719

AN ORDINANCE OF THE CITY OF KIRKLAND, WASHINGTON, AUTHORIZING THE ISSUANCE OF LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$30,250,000 FOR THE PURPOSE OF REFUNDING CERTAIN OUTSTANDING GENERAL OBLIGATION BONDS OF THE CITY AND PAYING COSTS OF ISSUING THE BONDS; DELEGATING CERTAIN AUTHORITY TO APPROVE THE METHOD OF SALE AND FINAL TERMS OF THE BONDS; AND AUTHORIZING OTHER RELATED MATTERS.

Section 1. Defines certain capitalized terms used in the Ordinance.

Section 2. Sets forth findings of the Council, and authorizes the issuance and sale of the City's limited tax general obligation refunding bonds in an aggregate principal amount not to exceed \$30,250,000 (the "Bonds") for the purpose of defeasing and refunding the City's outstanding Limited Tax General Obligation Bonds, 2010A (Taxable Build America Bonds – Direct Payment) (the "Refunded Bonds") and paying costs of issuance of the Bonds.

Section 3. Adopts a system of registration and exchange for the Bonds and describes the arrangements for paying principal of and interest on the Bonds.

Section 4. Provides for the redemption of the Bonds prior to their scheduled maturities to the extent, if any, set forth in the applicable bond purchase agreement or certificate of award (the "Sale Document") pursuant to which the Bonds will be sold to an underwriter.

Section 5. Describes the form of the Bonds.

Section 6. Specifies the manner of the execution and authentication of the Bonds.

Section 7. Authorizes the application of Bond proceeds for the defeasance and refunding of the Refunded Bonds in accordance with an escrow deposit agreement to be executed by the City and an escrow agent, and calls the callable Refunded Bonds for redemption on their earliest call date.

Section 8. Covenants that the City will take all actions necessary to exclude interest on the Bonds from the gross income of the owners for federal income tax purposes.

Section 9. Provides for the payment of debt service on the Bonds from property tax levies permitted to the City without a vote of the people or from other legally available sources, and pledges the full faith, credit and resources of the City for the levy and collection of such taxes and the prompt payment of debt service on the Bonds.

Section 10. Delegates authority, for a limited time, to determine whether the Bonds will be offered through a competitive public sale or a negotiated

public sale and to execute a Sale Document specifying the financial terms of the Bonds within parameters adopted by the City Council; and authorizes all actions necessary to execute and deliver the Bonds in accordance with the terms of the Sale Document.

Section 11. Delegates authority to approve the preliminary and final Official Statements in connection with the offering of the Bonds to the public.

Section 12. Covenants that the City will execute and deliver at closing a continuing disclosure certificate for the benefit of the owners of the Bonds.

Section 13. Sets forth conditions under which the Bonds may be defeased.

Section 14. Provides for the authentication and delivery of new Bonds as may be necessary to replace any Bonds that are lost, stolen or destroyed.

Section 15. Provides for the severability of the Ordinance and ratifies prior actions taken in furtherance of the purposes of the Ordinance.

Section 16. Authorizes the City Clerk to correct any clerical errors in the Ordinance, with approval of the City Attorney and the City's bond counsel.

Section 17. States the effective date of the Ordinance.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ___ day of ___, 2020.

I certify that the foregoing is a summary of Ordinance No. 4719 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk