

CITY OF EDMONDS, WASHINGTON

ORDINANCE NO. 3460

AN ORDINANCE of the City of Edmonds, Washington, relating to contracting indebtedness; providing for the issuance, specifying the maturities, interest rates, terms and covenants of \$7,000,000 par value of Unlimited Tax General Obligation Refunding Bonds, 2003, to provide part of the funds with which to pay the cost of advance refunding a portion of the City's outstanding Unlimited Tax General Obligation Bonds, 1996, and paying the administrative costs of such refunding and the costs of issuance and sale of such bonds; establishing a bond redemption fund; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with U.S. Bank National Association of Seattle, Washington, as refunding trustee; providing for the call, payment and redemption of the outstanding bonds to be refunded; providing for bond insurance; and approving the sale and providing for the delivery of the bonds to Seattle-Northwest Securities Corporation of Seattle, Washington.

Passed June 24, 2003

*This document prepared by:*

*Foster Pepper & Shefelman PLLC  
1111 Third Avenue, Suite 3400  
Seattle, Washington 98101  
(206) 447-4400*

**TABLE OF CONTENTS**

	<u>Page</u>
Section 1. Definitions .....	2
Section 2. Authorization and Description of Bonds .....	4
Section 3. Registration and Transfer of Bonds .....	5
Section 4. Payment of Bonds .....	7
Section 5. Redemption Provisions and Open Market Purchase of Bonds.....	7
Section 6. Notice of Redemption .....	8
Section 7. Failure to Redeem Bonds .....	9
Section 8. Pledge of Taxes .....	9
Section 9. Form and Execution of Bonds.....	9
Section 10. Bond Registrar.....	10
Section 11. Preservation of Tax Exemption for Interest on Bonds .....	11
Section 12. Designation of Bonds as “Qualified Tax-Exempt Obligations.” .....	11
Section 13. Refunding or Defeasance of the Bonds.....	12
Section 14. Bond Fund .....	13
Section 15. Refunding of Refunded Bonds .....	14
Section 16. Call for Redemption of the Refunded Bonds .....	17
Section 17. City Findings with Respect to Refunding.....	17
Section 18. Approval of Bond Purchase Contract .....	18
Section 19. Preliminary Official Statement Deemed Final .....	18
Section 20. Undertaking to Provide Continuing Disclosure.....	19
Section 21. Bond Insurance.....	21
Section 22. Payment Procedures Under Financial Guaranty Policy .....	22
Section 23. Parties Interested Herein .....	24
Section 24. Effective Date of Ordinance .....	26

CITY OF EDMONDS, WASHINGTON

ORDINANCE NO. 3460

AN ORDINANCE of the City of Edmonds, Washington, relating to contracting indebtedness; providing for the issuance, specifying the maturities, interest rates, terms and covenants of \$7,000,000 par value of Unlimited Tax General Obligation Refunding Bonds, 2003, to provide part of the funds with which to pay the cost of advance refunding a portion of the City's outstanding Unlimited Tax General Obligation Bonds, 1996, and paying the administrative costs of such refunding and the costs of issuance and sale of such bonds; establishing a bond redemption fund; providing for and authorizing the purchase of certain obligations out of the proceeds of the sale of the bonds herein authorized and for the use and application of the money derived from those investments; authorizing the execution of an agreement with U.S. Bank National Association of Seattle, Washington, as refunding trustee; providing for the call, payment and redemption of the outstanding bonds to be refunded; providing for bond insurance; and approving the sale and providing for the delivery of the bonds to Seattle-Northwest Securities Corporation of Seattle, Washington.

WHEREAS, pursuant to Ordinance No. 3106, the City of Edmonds, Washington (the "City") heretofore issued its \$9,275,000 par value Unlimited Tax General Obligation Bonds, 1996 (the "1996 Bonds"), for the purpose of paying the cost of constructing public safety facilities, and by that ordinance reserved the right to redeem the 1996 Bonds maturing on or after December 1, 2007, prior to their maturity at any time on or after December 1, 2006, as a whole or in part (within one or more maturities selected by the City and by lot within a maturity in such manner as the Bond Registrar shall determine), at a price of par plus accrued interest to the date fixed for redemption; and

WHEREAS, after due consideration, it appears to the City Council that a portion of the 1996 Bonds (hereinafter defined as the "Refunded Bonds") may be refunded by the issuance and sale of the unlimited tax general obligation refunding bonds authorized herein (the "Bonds") so that a substantial savings will be effected by the difference between the principal and interest

cost over the life of the Bonds and the principal and interest cost over the life of the Refunded Bonds but for such refunding, which refunding will be effected by the Refunding Plan (hereinafter defined); and

WHEREAS, to effect that refunding in the manner that will be most advantageous to the City it is found necessary and advisable that certain Acquired Obligations (hereinafter defined) bearing interest and maturing at such time or times as necessary to accomplish the refunding as aforesaid be purchased out of a portion of the proceeds of the Bonds and other money of the City; and

WHEREAS, the City Council deems it to be in the best interests of the City to issue and sell the Bonds to pay part of the cost of advance refunding the Refunded Bonds and to pay the administrative costs of such refunding and the costs of issuance and sale of the Bonds; and

WHEREAS, Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company ("Ambac Assurance" or the "Bond Insurer"), has made a commitment to issue an insurance policy (the "Financial Guaranty Insurance Policy") insuring the payment when due of the principal of and interest on the Bonds as provided therein, and the City Council deems that the purchase of such Financial Guaranty Insurance Policy is in the best interest of the City; and

WHEREAS, Seattle-Northwest Securities Corporation of Seattle, Washington, has offered to purchase the Bonds under the terms and conditions hereinafter set forth in the form of a bond purchase agreement, and the City Council has determined it is in the best interest of the City to accept that offer; NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN  
AS FOLLOWS:

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

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

"Bond Insurer" or "Ambac Assurance" means Ambac Assurance Corporation, a Wisconsin-domiciled stock insurance company.

"Bond Fund" means the Unlimited Tax General Obligation Refunding Bond Fund, 2003,

"Bond Register" means the registration books of the Bond Registrar on which are recorded the names of the owners of the Bonds.

"Bond Registrar" means, collectively, the fiscal agent and co-fiscal agent of the State of Washington as the same may be designated from time to time.

"Bonds" means the \$7,000,000 par value Unlimited Tax General Obligation Refunding Bonds, 2003, of the City authorized to be issued by this ordinance.

"City" means the City of Edmonds, Washington, a duly organized and existing noncharter code city under the laws of the State of Washington.

"Code" means the Internal Revenue Code of 1986, as amended.

"DTC" means The Depository Trust Company.

"Letter of Representations" means the Blanket Issuer Letter of Representations dated August 6, 1996, between DTC and the City.

"Financial Guaranty Insurance Policy" means the financial guaranty insurance policy issued by the Bond Insurer insuring the payment when due of the principal of and interest on the Bonds as provided herein.

"Refunded Bonds" means the following outstanding Unlimited Tax General Obligation Bonds, 1996, of the City, issued pursuant to Ordinance No. 3106, the refunding of which has been provided for by this ordinance:

<u>Maturity Year (December 1)</u>	<u>Refunded Principal</u>	<u>Interest Rate</u>
2008	\$ 170,000 <sup>1</sup>	5.15%
**	**	**
2010 <sup>2</sup>	1,135,000	5.40
2011	645,000	5.50
2012	700,000	5.55
**	**	**
2016 <sup>2</sup>	3,465,000	5.60

<sup>1</sup>Represents a portion of 2008 maturity

<sup>2</sup>Term Bonds

"Refunding Plan" means:

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

(b) the payment of the interest on the Refunded Bonds when due up to and including December 1, 2006, and the call, payment, and redemption on December 1, 2006, of all of the outstanding Refunded Bonds at a price of par; and

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

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

"Refunding Trustee" means U.S. Bank National Association of Seattle, Washington, serving as trustee or escrow agent or any successor trustee or escrow agent.

Section 2. Authorization and Description of Bonds. The City shall issue the Bonds for the purpose of carrying out the Refunding Plan. The Bonds shall be called Unlimited Tax General Obligation Refunding Bonds, 2003, of the City; shall be in the aggregate principal

amount of \$7,000,000; shall be dated July 1, 2003; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification; shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) payable semiannually on each June 1 and December 1, commencing December 1, 2003, to the maturity or earlier redemption of the Bonds; and shall mature on December in years and amounts and bear interest at the rates per annum as follows:

<u>Maturity</u> <u>Years</u>	<u>Amounts</u>	<u>Interest</u> <u>Rates</u>
2003	\$ 70,000	2.000%
2004	90,000	2.000
2005	90,000	2.000
2006	95,000	2.000
2007	90,000	2.250
2008	265,000	2.375
2009	640,000	2.500
2010	670,000	3.000
2011	715,000	3.125
2012	755,000	3.250
2013	800,000	3.100
2014	855,000	3.150
2015	905,000	3.400
2016	960,000	3.500

\$885,000 of principal of the Bonds shall constitute nonvoted debt of the City.

Section 3. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on the Bond Register. The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to

the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee. The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal payment or redemption date.

The Bonds initially shall be registered in the name of Cede & Co., as the nominee of DTC. The Bonds so registered shall be held in fully immobilized form by DTC as depository in accordance with the provisions of a Letter of Representations. Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal of or interest on the Bonds, or any notice that is permitted or required to be given to registered owners hereunder (except such notice as is required to be given by the Bond Registrar to DTC).

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

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the City that it no longer wishes to continue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the City may appoint a substitute depository. Any such

substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

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

Section 4. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners at either of the principal offices of the Bond Registrar at the option of the owners. Notwithstanding the foregoing, as long as the Bonds are registered in the name of DTC or its nominee, payment of principal of and interest on the Bonds shall be made in the manner set forth in the Letter of Representations.

Section 5. Redemption Provisions and Open Market Purchase of Bonds. Bonds maturing in the years 2003 through 2013, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right and option to redeem the Bonds maturing on or after December 1, 2014, prior to their stated maturity dates at any time on or after December 1, 2013, as a whole or in part (within one or more maturities selected by the City and randomly within a maturity in such manner as the Bond Registrar shall determine), at par plus accrued interest to the date fixed for redemption.

Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is

redeemed, upon surrender of that Bond at either of the principal offices of the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds, at the option of the registered owner) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate principal amount remaining unredeemed.

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

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

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

Section 6. Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to Moody's Investors Service, Inc., and Standard & Poor's at their offices in New York, New York, or their successors, to Seattle-Northwest Securities Corporation at its principal office in Seattle, Washington, or its successor, to the Bond Insurer at its principal office in New York, New York, or its successor, to each NRMSIR or the MSRB and to such other persons and with

such additional information as the Administrative Services Director of the City shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, notice of redemption shall be given in accordance with the Letter of Representations.

Section 7. Failure to Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the Bond Fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner thereof.

Section 8. Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to levy taxes annually without limitation as to rate or amount on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Bonds, and the full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest.

Section 9. Form and Execution of Bonds. The Bonds shall be prepared in a form consistent with the provisions of this ordinance and state law, shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

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

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered City of Edmonds, Washington, Unlimited Tax General Obligation Refunding Bonds, 2003, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENT  
Bond Registrar

By \_\_\_\_\_  
Authorized Signer

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

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

Section 10. Bond Registrar. The Bond Registrar shall keep, or cause to be kept, at its principal corporate trust office, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and City Ordinance No. 2451 establishing a system of registration for the City's bonds and obligations.

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

Section 11. Preservation of Tax Exemption for Interest on Bonds. The City covenants that it will take all actions necessary to prevent interest on the Bonds 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 Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds, which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirement of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), is applicable to the Bonds, take all actions necessary to comply (or to be treated as having complied) with that requirement in connection with the Bonds, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Bonds from being included in gross income for federal income tax purposes. The City certifies that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

Section 12. Designation of Bonds as "Qualified Tax-Exempt Obligations." The City has determined and certifies that (a) the Bonds are not "private activity bonds" within the meaning of Section 141 of the Code; (b) the reasonably anticipated amount of tax-exempt obligations (other

than private activity bonds and other obligations not required to be included in such calculation) which the City and any entity subordinate to the City (including any entity which the City controls, which derives its authority to issue tax-exempt obligations from the City or which issues tax-exempt obligations on behalf of the City) will issue during the calendar year in which the Bonds are issued will not exceed \$10,000,000; and (c) the amount of tax-exempt obligations, including the Bonds, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bonds are issued does not exceed \$10,000,000. The City designates the Bonds as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code.

Section 13. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, refund or defease all such then-outstanding Bonds (hereinafter collectively called the “defeased Bonds”) and to pay the costs of the refunding or defeasance. If money and/or “government obligations” (as defined in chapter 39.53 RCW, as now or hereafter amended) maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire, refund or defease the defeased Bonds in accordance with their terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of defeased Bonds (hereinafter called the “trust account”), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. The owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. The City shall include in the refunding or defeasance plan such

provisions as the City deems necessary for the random selection of any defeased Bonds that constitute less than all of a particular maturity of the Bonds, for notice of the defeasance to be given to the owners of the defeased Bonds and to such other persons as the City shall determine, and for any required replacement of Bond certificates for defeased Bonds. The defeased Bonds shall be deemed no longer outstanding, and the City may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine.

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

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

Section 14. Bond Fund. There is created and established in the office of the Administrative Services Director of the City a special fund designated as the Unlimited Tax General Obligation Refunding Bond Fund, 2003 (the "Bond Fund"). Accrued interest on the Bonds, if any, received from the sale and delivery of the Bonds shall be paid into the Bond Fund. All taxes collected for and allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund.

Section 15. Refunding of Refunded Bonds.

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

(b) Use of Bond Proceeds; Acquisition of Acquired Obligations. All of the proceeds of the sale of the Bonds, exclusive of the accrued interest thereon which shall be paid into the Bond Fund, shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to discharge the obligations of the City relating to the Refunded Bonds under Ordinance No. 3106 by providing for the payment of the amounts required to be paid by the Refunding Plan. To the extent practicable, such obligations shall be discharged fully by the Refunding Trustee's simultaneous purchase of the Acquired Obligations, bearing such interest and maturing as to principal and interest in such amounts and at such times so as to provide, together with a beginning cash balance, if necessary, for the payment of the amount required to be paid by the Refunding Plan. The Acquired Obligations are listed and more particularly described in Exhibit A attached to the Refunding Trust Agreement between the City and the Refunding Trustee, but are subject to substitution as set forth below. Any Bond proceeds or other money deposited with the Refunding Trustee not needed to purchase the Acquired Obligations and provide a beginning cash balance, if any, and pay the costs of issuance of the Bonds shall be returned to the City at the time of delivery of the Bonds to the initial purchaser thereof and deposited in the Bond Fund to pay interest on the Bonds on the first interest payment date.

(c) Substitution of Acquired Obligations. Prior to the purchase of any Acquired Obligations by the Refunding Trustee, the City reserves the right to substitute other direct, noncallable obligations of the United States of America ("Substitute Obligations") for any of the Acquired Obligations and to use any savings created thereby for any lawful City purpose if,

(a) in the opinion of Foster Pepper & Shefelman PLLC, the City's bond counsel, the interest on the Bonds and the Refunded Bonds will remain excluded from gross income for federal income tax purposes under Sections 103, 148, and 149(d) of the Code, and (b) such substitution shall not impair the timely payment of the amounts required to be paid by the Refunding Plan, as verified by a nationally recognized independent certified public accounting firm.

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

(d) Administration of Refunding Plan. The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or substitute obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or substitute obligations) and money deposited with the Refunding Trustee pursuant to this ordinance. All Acquired Obligations (or substitute obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of Ordinance No. 3106, this ordinance, chapter 39.53 RCW and other applicable statutes of the State of Washington and the Refunding Trust Agreement. All necessary and proper fees, compensation, and expenses of the Refunding Trustee for the Bonds and all other costs incidental to the setting up of the escrow to accomplish the refunding of the Refunded Bonds and costs related to the issuance and delivery of the Bonds, including bond printing, verification fees, bond insurance premium, bond counsel's fees, and other related expenses, shall be paid out of the proceeds of the Bonds.

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

federal law governing the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 16. Call for Redemption of the Refunded Bonds. The City calls for redemption on December 1, 2006, all of the Refunded Bonds at par plus accrued interest. Such call for redemption shall be irrevocable after the delivery of the Bonds to the initial purchaser thereof. The date on which the Refunded Bonds are herein called for redemption is the first date on which those bonds may be called.

The proper City officials are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to Ordinance No. 3106 in order to effect the redemption prior to their maturity of the Refunded Bonds.

Section 17. City Findings with Respect to Refunding. The City Council of the City finds and determines that the issuance and sale of the Bonds at this time will effect a savings to the City and is in the best interest of the City and its taxpayers and in the public interest. In making such finding and determination, the City Council has given consideration to the fixed maturities of the Bonds and the Refunded Bonds, the costs of issuance of the Bonds and the known earned income from the investment of the proceeds of the issuance and sale of the Bonds and other money of the City used in the Refunding Plan pending payment and redemption of the Refunded Bonds.

The City Council further finds and determines that the money to be deposited with the Refunding Trustee for the Refunded Bonds in accordance with Section 15 of this ordinance will discharge and satisfy the obligations of the City under Ordinance No. 3106 with respect to the Refunded Bonds, and the pledges, charges, trusts, covenants, and agreements of the City therein made or provided for as to the Refunded Bonds, and that the Refunded Bonds shall no longer be

deemed to be outstanding under such ordinance immediately upon the deposit of such money with the Refunding Trustee.

Section 18. Approval of Bond Purchase Contract. Seattle-Northwest Securities Corporation of Seattle, Washington, has presented a purchase contract (the “Bond Purchase Contract”) to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the City Clerk and is incorporated herein by this reference. The City Council finds that entering into the Bond Purchase Contract is in the City’s best interest and therefore accepts the offer contained therein and authorizes its execution by City officials.

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

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

Section 19. Preliminary Official Statement Deemed Final. The City Council has been provided with copies of a preliminary official statement dated June 18, 2003 (the “Preliminary Official Statement”), prepared in connection with the sale of the Bonds. For the sole purpose of the Bond purchaser’s compliance with Securities and Exchange Commission Rule 15c2-12(b)(1), the City “deems final” that Preliminary Official Statement as of its date, except for the omission of information as to offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, maturity dates, options of redemption, delivery dates, ratings and other terms of the Bonds dependent on such matters.

Section 20. Undertaking to Provide Continuing Disclosure. To meet the requirements of United States Securities and Exchange Commission (“SEC”) Rule 15c2-12(b)(5) (the “Rule”), as applicable to a participating underwriter for the Bonds, the City makes the following written undertaking (the “Undertaking”) for the benefit of holders of the Bonds:

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

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

(ii) To each NRMSIR or the Municipal Securities Rulemaking Board (“MSRB”), and to the SID, timely notice of the occurrence of any of the following events with respect to the Bonds, if material: (1) principal and interest payment delinquencies; (2) non-payment related defaults; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions or events affecting the tax-exempt status of the Bonds; (7) modifications to rights of holders of the Bonds; (8) Bond calls (other than scheduled mandatory redemptions of Term Bonds); (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds; and (11) rating changes; and

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

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

(i) Shall consist of (1) annual financial statements prepared (except as noted in the financial statements) in accordance with applicable generally accepted accounting principles applicable to governmental units, as such principles may be changed from time to time and as permitted by State law, which statements shall not be audited, except, however, that if and when audited financial statements are otherwise prepared and available to the City they will be provided; (2) a statement of authorized, issued and outstanding general obligation debt of the City; (3) the assessed value of the property

within the City subject to ad valorem taxation; and (4) ad valorem tax levy rates and amounts and percentage of taxes collected;

(ii) Shall be provided to each NRMSIR and the SID, not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2003; and

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

(c) Amendment of Undertaking. The Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency, NRMSIR, the SID or the MSRB, under the circumstances and in the manner permitted by the Rule.

The City will give notice to each NRMSIR or the MSRB, and the SID, of the substance (or provide a copy) of any amendment to the Undertaking and a brief statement of the reasons for the amendment. If the amendment changes the type of annual financial information to be provided, the annual financial information containing the amended financial information will include a narrative explanation of the effect of that change on the type of information to be provided.

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

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

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

an order of specific performance from an appropriate court, to compel the City or other obligated person to comply with the Undertaking.

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

(i) Preparing and filing the annual financial information undertaken to be provided;

(ii) Determining whether any event specified in subsection (a) has occurred, assessing its materiality with respect to the Bonds, and, if material, preparing and disseminating notice of its occurrence;

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

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

(v) Effecting any necessary amendment of the Undertaking.

Section 21. Bond Insurance. The City is authorized to purchase from the Bond Insurer the Financial Guaranty Insurance Policy insuring the prompt payment of the principal of and interest on the Bonds and agrees to the conditions for obtaining that policy, including the payment of the premium therefor. Any notice required to be given to the Bond Insurer shall be sent by certified or registered mail to Ambac Assurance Corporation, One State Street Plaza, New York, New York 10004.

While the Financial Guaranty Insurance Policy is in effect, the City or the Bond Registrar shall furnish to the Bond Insurer (to the attention of the Surveillance Department, unless otherwise indicated):

(a) As soon as practicable after the filing thereof, copies of any financial statements, audits and annual reports of the City;

(b) copies of any notices given to the registered owners of the Bonds, including, without limitation, notices of any redemption of or defeasance of Bonds, and any certificate rendered pursuant to this ordinance relating to the security for the Bonds;

(c) to the extent that the City has entered into a continuing disclosure agreement with respect to the Bonds, the Bond Insurer shall be included as a party to be notified; and

(d) such additional information the Bond Insurer may reasonably request.

The Bond Registrar shall notify the Bond Insurer (to the attention of the General Counsel Office) of any failure of the City to provide relevant notices and certificates.

The City will permit the Bond Insurer to discuss the affairs, finances and accounts of the City or any information the Bond Insurer may reasonably request regarding the security for the Bonds with appropriate officers of the City. The Bond Registrar and the City will permit the Bond Insurer to have access to and make copies of all books and records relating to the Bonds at any reasonable time.

The Bond Insurer shall have the right to direct an accounting at the City's expense, and the City's failure to comply with such direction within 30 days after receipt of written notice of the direction from the Bond Insurer shall be deemed a default hereunder unless compliance cannot occur within such period. In that event and only if an extension would not materially adversely affect the interest of any registered owner of the Bonds, that 30-day period will be extended so long as compliance is begun within that period and diligently pursued.

Section 22. Payment Procedures Under Financial Guaranty Policy. The Bond Insurer requires that the following sections be included in this ordinance:

"As long as the bond insurance shall be in full force and effect, the Obligor, the Trustee and any Paying Agent agree to comply with the following provisions"

"(a) At least one (1) day prior to all Interest Payment Dates the Trustee or Paying Agent [the Bond Registrar], if any, will determine whether there will be sufficient funds in the Funds and Accounts to pay the principal of or interest on the Obligations on such Interest Payment Date. If the Trustee or Paying Agent, if any, determines that there will be insufficient funds in such Funds or Accounts, the Trustee or Paying Agent, if any, shall so notify Ambac Assurance. Such notice shall specify the amount of the anticipated deficiency, the Obligations to which such deficiency is applicable and whether such Obligations will be deficient as to principal or interest, or both. If the Trustee or Paying Agent, if any, has not so notified Ambac Assurance at least one (1) day prior to an Interest Payment Date, Ambac Assurance will make payments of principal or interest due on the Obligations on or before the first (1st) day next following the date on which Ambac Assurance shall have received notice of nonpayment from the Trustee or Paying Agent, if any.

"(b) the Trustee or Paying Agent, if any, shall, after giving notice to Ambac Assurance as provided in (a) above, make available to Ambac Assurance and, at Ambac Assurance's direction, to The Bank of New York in New York, New York, as insurance trustee for Ambac Assurance or any successor insurance trustee (the "Insurance Trustee"), the registration books of the Obligor maintained by the Trustee or Paying Agent, if any, and all records relating to the Funds and Accounts maintained under this ordinance.

"(c) the Trustee or Paying Agent, if any, shall provide Ambac Assurance and the Insurance Trustee with a list of registered owners of Obligations entitled to receive principal or interest payments from Ambac Assurance under the terms of the Financial Guaranty Insurance Policy, and shall make arrangements with the Insurance Trustee (i) to mail checks or drafts to the registered owners of Obligations entitled to receive full or partial interest payments from Ambac Assurance and (ii) to pay principal upon Obligations surrendered to the Insurance Trustee by the registered owners of Obligations entitled to receive full or partial principal payments from Ambac Assurance.

"(d) the Trustee or Paying Agent, if any, shall, at the time it provides notice to Ambac Assurance pursuant to (a) above, notify registered owners of Obligations entitled to receive the payment of principal or interest thereon from Ambac Assurance (i) as to the fact of such entitlement, (ii) that Ambac Assurance will remit to them all or a part of the interest payments next coming due upon proof of Holder entitlement to interest payments and delivery to the Insurance Trustee, in form satisfactory to the Insurance Trustee, of an appropriate assignment of the registered owner's right to payment, (iii) that should they be entitled to receive full payment of principal from Ambac Assurance, they must surrender their Obligations (along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee to permit ownership of such Obligations to be registered in the name of Ambac Assurance) for payment to the Insurance Trustee, and not the Trustee or Paying Agent, if any, and (iv) that should they be entitled to receive partial payment of principal from Ambac

Assurance, they must first surrender their Obligations for payment thereon first to the Trustee or Paying Agent, if any, who shall note on such Obligations the portion of the principal paid by the Trustee or Paying Agent, if any, and then, along with an appropriate instrument of assignment in form satisfactory to the Insurance Trustee, to the Insurance Trustee, which will then pay the unpaid portion of principal.

"(e) in the event that the Trustee or Paying Agent, if any, has notice that any payment of principal of or interest on a Bond which has become Due for Payment and which is made to a Holder by or on behalf of the Obligor has been deemed a preferential transfer and theretofore recovered from its registered owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with the final, nonappealable order of a court having competent jurisdiction, the Trustee or Paying Agent, if any, shall, at the time Ambac Assurance is notified pursuant to (a) above, notify all registered owners that in the event that any registered owner's payment is so recovered, such registered owner will be entitled to payment from Ambac Assurance to the extent of such recovery if sufficient funds are not otherwise available, and the Trustee or Paying Agent, if any, shall furnish to Ambac Assurance its records evidencing the payments of principal of and interest on the Obligations which have been made by the Trustee or Paying Agent, if any, and subsequently recovered from registered owners and the dates on which such payments were made.

"(f) in addition to those rights granted Ambac Assurance under this ordinance, Ambac Assurance shall, to the extent it makes payment of principal of or interest on Obligations, become subrogated to the rights of the recipients of such payments in accordance with the terms of the Financial Guaranty Insurance Policy, and to evidence such subrogation (i) in the case of subrogation as to claims for past due interest, the Trustee or Paying Agent, if any, shall note Ambac Assurance's rights as subrogee on the registration books of the Obligor maintained by the Trustee or Paying Agent, if any, upon receipt from Ambac Assurance of proof of the payment of interest thereon to the registered owners of the Obligations, and (ii) in the case of subrogation as to claims for past due principal, the Trustee or Paying Agent, if any, shall note Ambac Assurance's rights as subrogee on the registration books of the Obligor maintained by the Trustee or Paying Agent, if any, upon surrender of the Obligations by the registered owners thereof together with the proof of the payment of principal thereof."

Section 23. Parties Interested Herein. To the extent that this ordinance confers upon or gives or grants to the Bond Insurer any right, remedy or claim under or by reason of this ordinance, the Bond Insurer is explicitly recognized as being a third-party beneficiary hereunder and may enforce any such right, remedy or claim conferred, given or granted hereunder. Nothing expressed or implied in this ordinance is intended or shall be construed to confer upon,

or to give or grant to, any person or entity, other than the City, the Bond Insurer and the registered owners of the Bonds, any right, remedy or claim under or by reason of this ordinance or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this ordinance contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Bond Insurer and the registered owners of the Bonds.

Notwithstanding any other provision of this ordinance, the City shall notify the Bond Insurer immediately if at any time there are insufficient funds to make any payments of principal and/or interest as required and immediately upon the occurrence of any event of default hereunder. Anything in this ordinance to the contrary notwithstanding, upon the occurrence and continuance of an event of default, the Bond Insurer shall be entitled to control and direct the enforcement of all rights and remedies granted to the Bond owners for the benefit of the Bond owners pursuant to state law.

Any provision of this ordinance expressly recognizing or granting rights in or to the Bond Insurer may not be amended in any manner which affects the rights of the Bond Insurer hereunder without the prior written consent of the Bond Insurer. Unless otherwise provided in this section, the Bond Insurer's consent shall be required, in addition to Bond owner consent, when required, for the following purposes: (i) execution and delivery of any supplemental ordinance, and (ii) initiation or approval of any other action which requires Bond owner consent.

Any reorganization or liquidation plan with respect to the City must be acceptable to the Bond Insurer. In the event of any reorganization or liquidation, the Bond Insurer shall have the right to vote on behalf of all Bond owners who hold Ambac Assurance-insured bonds absent a default by the Bond Insurer under the applicable Financial Guaranty Insurance Policy insuring such bonds.

Section 24.    Effective Date of Ordinance.    This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor of the City of Edmonds, Washington, at a regular open public meeting thereof this 24<sup>th</sup> day of June, 2003.

CITY OF EDMONDS, WASHINGTON

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

ATTEST:

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

FORM APPROVED:

\_\_\_\_\_  
Bond Counsel

CERTIFICATION

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

1. The attached copy of Ordinance No. 3460 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on June 24, 2003, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper; and

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

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_ day of \_\_\_\_\_, 2003.

CITY OF EDMONDS, WASHINGTON

\_\_\_\_\_  
SANDRA S. CHASE, City Clerk