

# ORIGINAL

## CITY OF BELLEVUE, WASHINGTON

### ORDINANCE NO. 5910

AN ORDINANCE authorizing the issuance and sale of a limited tax general obligation bond anticipation note of the City in the principal amount of not to exceed \$30,000,000 for the purpose of financing projects included in the City's Capital Investment Program and repaying the City's Limited Tax General Obligation Bond Anticipation Note, 2008; providing the form, terms, conditions, covenants and maturity of the note; authorizing the sale of the note; providing for the disposition of the proceeds of sale of the note to pay for such acquisition and for costs of issuing the note; and providing for the issuance of limited tax general obligation bonds of the City.

WHEREAS, the City of Bellevue, Washington (the "City"), has outstanding its Limited Tax General Obligation Bond Anticipation Note, 2008, dated August 15, 2008, issued in the initial principal amount of not to exceed \$15,000,000 (the "2008 Note"), pursuant to Ordinance No. 5833, to evidence a revolving line of credit with Bank of America, N.A. (the "Bank"); and

WHEREAS, the City wishes to increase the principal amount available under the revolving line of credit to finance and refinance projects included in the City's Capital Investment Program (the "Projects"); and

WHEREAS, RCW 39.46.050 provides that a local government authorized to issue bonds may establish a revolving line of credit with any qualified depository to be drawn upon in exchange for its obligation; and

WHEREAS, the City intends to refinance amounts drawn on the revolving line of credit with lawfully available funds and, if necessary, with the proceeds of one or more series of tax-exempt or taxable limited tax general obligation bonds; and

WHEREAS, the Council deems it to be in the best interest of the City and its citizens to accept the Bank's offer to increase the revolving line of credit to an amount not to exceed \$30,000,000 and to issue to the Bank a limited tax general obligation bond anticipation note in the principal amount of \$30,000,000 (the "Note") to evidence such increased revolving line of credit and to refund the 2008 Note; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES  
ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, the following words shall have the following meanings, unless a different meaning clearly appears from the context:

"Bank" means Bank of America, N.A.

"Bank's Proposal" means the proposal of the Bank dated September 24, 2009, included in this ordinance as Exhibit A.

"BBA LIBOR Daily Floating Rate" means a fluctuating rate of interest that can change on each banking day. The rate will be adjusted on each banking day to equal the British Bankers Association LIBOR Rate ("BBA LIBOR") for U.S. Dollar deposits for delivery on the date in question for a one-month term beginning on that date. The Bank will use the BBA LIBOR Rate as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) as determined at approximately 11:00 a.m. London time two (2) London Banking Days prior to the date in question, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a one month term, as adjusted from time to time in the Bank's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate will be determined by such alternate method as reasonably selected by the Bank. For purposes of calculating Permitted Interest Rates under this ordinance, the BBA LIBOR Daily Floating Rate shall be no lower than 0.75 percent per annum.

"Bond Counsel" means K&L Gates LLP or any other nationally recognized bond counsel firm.

"Bonds" means the limited tax general obligation bonds to be issued by the City to pay and redeem the Note.

"City" means the City of Bellevue, Washington, a municipal corporation duly organized and existing under the laws of the State of Washington.

"City Manager" means the City Manager of the City, or his designee as appointed by the City Manager in writing, or any successor to the functions of that position.

"Code" means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the United States Treasury Department or the Internal Revenue Service, to the extent applicable to the Note.

"Council" means the general legislative authority of the City.

"Debt Service Fund" means the City's Interest and Debt Redemption Regular Levy Fund described in Section 6.

"Federal Tax Certificate" means the Federal Tax Certificate signed by the Finance Director or City Manager pertaining to the tax-exemption of interest on

any draws on the Note for any portion of proceeds to be used for a permitted tax exempt-purpose under the Code.

"Finance Director" means the Finance Director of the City, or her designee as appointed by the Finance Director in writing, or any successor to the functions of that position.

"LIBOR Fixed Rate" means, for any applicable interest period, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) at approximately 11:00 a.m. London time, two London Banking Days before the commencement of the interest period, for U.S. dollar deposits (for delivery on the first day of such interest period) with a term equivalent to such interest period. If such rate is not available at such time for any reason, then the rate for that LIBOR Interest Rate Period will be determined by such alternate method as reasonably selected by the Bank. For purposes of calculating Permitted Interest Rates under this ordinance, the BBA LIBOR Daily Floating Rate shall be no lower than 0.75 percent per annum.

"LIBOR Interest Rate Period" means a period between one month and twelve months in length, consisting of one-month increments, specified in a notice of change to the LIBOR Rate Mode. The first day of the LIBOR Interest Rate Period must be a London Banking Day. The date of the last day of the LIBOR Interest Rate Period and the actual number of days during the interest period will be determined by the Bank using the practices of the London inter-bank market.

"London Banking Day" means a day on which banks in London are open for business and dealing in offshore dollars.

"Note" means the City of Bellevue, Washington, Limited Tax General Obligation Bond Anticipation Note, 2009, issued pursuant to this ordinance in the principal amount of \$30,000,000.

"Note Register" means the registration records for the Note maintained by the Note Registrar.

"Note Registrar" means the Finance Director, whose duties include registering and authenticating the Note, maintaining the Note Register, transferring ownership of the Note, and paying the principal of and interest on the Note.

"Outstanding Principal Balance" means on any particular day the aggregate of all funds that the City has drawn from the Bank under the Note to that day, less the aggregate of all principal payments on the Note made by the City on or before that day.

"Permitted Interest Rate" means any of the Taxable Daily Floating Rate, Taxable Fixed Rate, Tax-Exempt BQ Daily Floating Rate, Tax-Exempt NBQ Daily Floating Rate, Tax-Exempt BQ Fixed Rate and Tax-Exempt NBQ Fixed Rate.

"Projects" means the projects included in the City's Capital Investment Program.

"Project Fund" means the General Capital Investment Program Fund, No. 3680 to be used to pay costs of the Projects, repaying the 2008 Note, and costs of issuing the Note.

"Registered Owner" means the person in whose name the Note is registered on the Note Register.

"Request for Draw" means a written request by the City Manager or Finance Director for a draw from the line of credit authorized to be established by this ordinance, in substantially the form set forth on Exhibit B.

"Rule" means the Securities and Exchange Commission Rule 15c2-12 under the Securities Exchange Act of 1934.

"Taxable Daily Floating Rate" means a variable per annum rate equal to the BBA LIBOR Daily Floating Rate, plus 90 basis points (.90%).

"Taxable Fixed Rate" means a per annum rate equal to the LIBOR Fixed Rate for the applicable LIBOR Interest Rate Period, plus 90 basis points (.90%).

"Tax-Exempt BQ Daily Floating Rate" means a variable per annum rate equal to 65% of the BBA LIBOR Floating Rate, plus 80 basis points (.80%). If a draw is requested at such rate, the Finance Director or City Manager shall designate that draw as a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Code as described in Section 19.

"Tax-Exempt NBO Daily Floating Rate" means a variable per annum rate equal to 65% of the BBA LIBOR Floating Rate, plus 163 basis points (1.63%).

"Tax-Exempt BQ Fixed Rate" means a per annum rate equal to 65% of the LIBOR Fixed Rate for the applicable LIBOR Interest Rate Period, plus 80 basis points (.80%). If a draw is requested at such rate, the Finance Director or City Manager shall designate that draw as a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Code as described in Section 19.

"Tax-Exempt NBO Fixed Rate" means a per annum rate equal to 65% of the LIBOR Fixed Rate for the applicable LIBOR Interest Rate Period, plus 163 basis points (1.63%).

"2008 Note" means the City's Limited Tax General Obligation Bond Anticipation Note, 2008, dated August 15, 2008, issued pursuant to Ordinance No. 5833 to evidence a line of credit that is to be refunded by issuance of the Note, as authorized by this ordinance.

Section 2. Findings and Authorization of Projects. The City finds that it is in the interests of the City and its citizens for the City to continue work on the Projects and to finance and refinance costs of the Projects by issuing the Note to establish an increased revolving line of credit with the Bank and refund the 2008 Note, as described in this ordinance. Costs of the Projects, of

refunding the 2008 Note and of issuing the Note will be paid out of the proceeds of draws on the revolving line of credit established by the Note.

Section 3. Authorization of the Bonds. For the purpose of providing funds to finance or refinance the Projects, including costs of issuing the Note and the Bonds, and refunding the 2008 Note, there shall be issued and sold limited tax general obligation bonds of the City to be designated "City of Bellevue, Washington, Limited Tax General Obligation Bonds" in an amount at least sufficient to pay the principal of and interest on the Note or any additional bond anticipation notes issued to redeem the Note on or before maturity, to the extent not paid from other sources.

The Bonds to be issued shall be in such series, principal amounts, denomination(s) and form; shall be dated and bear interest at such rate or rates; shall be payable at such place or places; shall have such option of payment prior to maturity; shall contain and be subject to such covenants; may be combined with any subsequently authorized bonds and issued as a single combined series, as provided hereafter by ordinance of the Council. The Bonds shall be payable from annual taxes levied within and as part of the tax levy permitted to the City without a vote of the people together with other money of the City that may be legally used and that the City may apply for such purpose. The full faith, credit and resources of the City are pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 4. Authorization of the Note. In anticipation of the issuance of the Bonds, the City shall, for the purpose of refunding the 2008 Note, financing costs of the Projects and costs of issuing the Note, establish a revolving line of credit. To evidence such line, the City shall issue a short-term obligation in the principal amount of not to exceed \$30,000,000. The short-term obligation shall be designated the "City of Bellevue, Washington, Limited Tax General Obligation Bond Anticipation Note, 2009," shall be dated as of its date of delivery, shall be fully registered as to both principal and interest, shall be in one denomination, and shall mature four years after its date of delivery. Amounts drawn on the line of credit evidenced by the Note shall bear interest at any Permitted Interest Rate, as elected by the City pursuant to a Request for Draw in substantially the form set forth on Exhibit B, which is hereby incorporated by this reference. Any amount drawn to accrue interest at the Taxable Fixed Rate, Tax-Exempt BQ Fixed Rate or Tax-Exempt NBQ Fixed Rate shall be in the minimum amount of \$100,000 as shall outstanding amounts converted from a floating rate to the Taxable Fixed Rate, Tax-Exempt BQ Fixed Rate or Tax-Exempt NBQ Fixed Rate. The City shall maintain records of amounts drawn on the Note showing what portion of the Outstanding Principal Balance bears interest at which of the Permitted Interest Rates. Amounts drawn on the line of credit evidenced by the Note may be redrawn after payment, providing a "revolving" line of credit. Any portion of the Outstanding Principal Balance may be converted from one Permitted Interest Rate to another by such a redrawing on the Note, provided that repayment or conversion of principal accruing at a Taxable Fixed Rate, Tax-Exempt BQ Fixed Rate or Tax-Exempt NBQ Fixed Rate prior to the end of its respective LIBOR Interest Rate Period may be subject to a prepayment premium pursuant to the Bank's Proposal.

The City hereby delegates to the City Manager or Finance Director authority to make a written Request for Draw pursuant to this ordinance.

Interest on each draw on the Note shall accrue from the date money is drawn until paid and shall be calculated per annum on the basis of a 360-day year and the actual number of days elapsed. Interest shall be payable semi-annually on each June 1 and December 1, commencing December 1, 2009, and at maturity or upon prepayment. The City reserves the right to pay interest on the Note more frequently than semi-annually. All principal on the Note shall be paid at maturity or upon prepayment.

Section 5. Registration, Exchange and Payments.

(a) *Registrar/Note Register.* The Finance Director shall act as Note Registrar. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Note if transferred or exchanged in accordance with the provisions of the Note and this ordinance and to carry out all of the Note Registrar's powers and duties under this ordinance.

(b) *Registered Ownership.* The City and the Note Registrar may deem and treat the Registered Owner of the Note as the absolute owner for all purposes, and neither the City nor the Note Registrar shall be affected by any notice to the contrary. Payment of the Note shall be made only as described in Section 5(e). All such payments made as described in Section 5(e) shall be valid and shall satisfy the liability of the City upon the Note to the extent of the amount so paid.

(c) *No Transfer or Exchange of Registered Ownership.* The Note shall not be transferable unless (i) the Bank's corporate name is changed and the transfer is necessary to reflect such change; or (ii) the transferee is a successor in interest of the Bank by means of a corporate merger, an exchange of stock, or a sale of assets.

(d) *Registration Covenant.* The City covenants that it will maintain a system for recording the ownership of the Note that complies with the provisions of Section 149 of the Code.

(e) *Place and Medium of Payment.* Both principal of and interest on the Note shall be payable in lawful money of the United States of America. Principal on the Note shall be payable by check or warrant or by other means mutually acceptable to the Bank and the City. Interest shall be payable as set forth in Section 4. Upon final payment of principal and interest of the Note, the Registered Owner shall surrender the Note for cancellation at the office of the Note Registrar.

Section 6. Debt Service Fund. The "Interest and Debt Redemption Regular Levy Fund" (the "Debt Service Fund") has heretofore been established. A new project entitled "2009 Limited G.O. BAN" is hereby created in the Debt Service Fund. The 2009 Limited G.O. BAN project of the Debt Service Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Note.

Money in the 2009 Limited G.O. BAN project of the Debt Service Fund may temporarily be deposited in such institutions or invested in such obligations as may be lawful for the investment of City money. Any earnings from the investment of such money shall be deposited in the Debt Service Fund.

Section 7. Payment of the Note. Both principal of and interest on the Note are payable from the proceeds of the sale of the Bonds or refunding bond anticipation notes to be issued by the City or from any other lawfully available funds. The City hereby covenants with the Bank that it will issue the Bonds, refunding bond anticipation notes, or a combination of the foregoing in an amount sufficient, together with other lawfully available funds, to pay when due the principal of and interest on the Note and will thereupon redeem the Note.

The City further irrevocably covenants that, unless the principal of and interest on the Note are paid from other sources, it will make annual levies of taxes upon all of the property in the City subject to taxation within and as a part of the tax levy permitted to cities without a vote of the electors in amounts sufficient to pay such principal and interest as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 8. Right of Prepayment. The City may prepay all or portions of the Outstanding Principal Balance only as provided in the Bank's Proposal. Prepayment fees apply to prepayments of amounts bearing interest at the Taxable Fixed Rate, the Tax-Exempt BQ Fixed Rate or the Tax-Exempt NBQ Fixed Rate, as provided in the Bank's Proposal. The City shall also pay any customary administrative fees charged by the Bank in connection with the foregoing. If the Note is prepaid in full, interest shall cease to accrue on the date such prepayment occurs.

The Note evidences a revolving line of credit. Any principal amount that is prepaid prior to maturity is available to be subsequently re-drawn by the City under the Note.

Section 9. Project Fund. The Project Fund has heretofore been established by the City. Money in the Project Fund shall be used to refund the 2008 Note and to pay costs of the Projects, costs of issuing the Note, and all costs incidental thereto. Costs of issuing the Note shall be paid from the CIP Interest and Interim Financing Expense project within the Project Fund.

Money remaining in the Project Fund after all of the costs of refunding the 2008 Note and paying costs of the Projects, costs of issuing the Note, and all costs incidental thereto have been paid may be used for any lawful City purpose.

Money in the Project Fund may temporarily be deposited in such institutions or in such obligations as may be lawful for the investment of City money. Any earnings from the investment of such money shall be retained in and become a part of the Project Fund.

Section 10. Note Deemed To Be No Longer Outstanding. In the event that the City, to effect the payment, retirement or redemption of the Note, sets aside in the Debt Service Fund or in another special account, held in trust by a trustee, cash or noncallable government obligations, as such obligations are now or hereafter defined in RCW 39.53, or any combination of cash and/or noncallable government obligations, in amounts and maturities that, together with the known earned income therefrom, are sufficient to redeem or pay and retire the Note in accordance with its terms and to pay when due the interest thereon, and such cash and/or noncallable 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 Note; provided that the City shall in this case have no further right to request advances from the Bank under the line of credit established under this ordinance. The owner of the Note shall cease to be entitled to any lien, benefit or security of this ordinance except the right to receive payment of principal and interest from such special account, and the Note shall be deemed to be not outstanding under this ordinance.

Section 11. Lost or Destroyed Note. In case the Note is lost, stolen or destroyed, the Note Registrar may execute and deliver a new Note of like amount, date, and tenor to the Registered Owner thereof upon the owner's paying the expenses and charges of the City and the Note Registrar in connection therewith and upon filing with the Note Registrar evidence satisfactory to the Note Registrar that the Note was actually lost, stolen or destroyed and of his/her/its ownership thereof, and upon furnishing the City with indemnity satisfactory to the Finance Director.

Section 12. Form of the Note. The Note shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. 1 \$30,000,000  
(or as much thereof as  
may be drawn hereunder)

STATE OF WASHINGTON  
CITY OF BELLEVUE, WASHINGTON  
LIMITED TAX GENERAL OBLIGATION BOND ANTICIPATION NOTE, 2009

REGISTERED OWNER: BANK OF AMERICA, N.A.  
MATURITY DATE: October 20, 2013  
INTEREST RATE: Permitted Interest Rates (as provided in the Note Ordinance)  
PRINCIPAL AMOUNT: NOT TO EXCEED THIRTY MILLION AND NO/100 DOLLARS

The City of Bellevue, Washington, a municipal corporation of the State of Washington (the "City") hereby acknowledges itself to owe and for value

received promises to pay to the Registered Owner hereof, on the Maturity Date identified above, the Outstanding Principal Balance (as defined in the within-mentioned Note Ordinance). The Outstanding Principal Balance shall bear interest at Permitted Interest Rates, as set forth in Ordinance No. \_\_\_\_\_ of the City, adopted on October 5, 2009 (the "Note Ordinance"). Interest on each draw making up the Outstanding Principal Balance Note shall accrue from the date money is drawn, pursuant to a Request for Draw and at the Permitted Interest Rate elected in such Request for Draw, until paid and shall be computed per annum on the principal amount outstanding on the basis of a 360-day year and the actual number of days elapsed. Interest shall be payable semi-annually on each June 1 and December 1, beginning December 1, 2009 and at maturity or upon early prepayment. The City reserves the right to pay interest on this Note more frequently than semi-annually. Principal on this Note shall be paid on the Maturity Date identified above unless earlier prepaid. Unused portions of the line of credit established by this Note shall be subject to the fee, if any, authorized by the Note Ordinance.

Both principal of and interest on this Note are payable in lawful money of the United States of America. Principal and interest shall be paid to the Registered Owner out of the Debt Service Fund of the City. Reference is made to the Note Ordinance and the Bank's Proposal incorporated therein for the definition of other capitalized terms used in this Note.

The City may prepay this Note, as provided in the Note Ordinance. A prepayment fee may apply, as set forth in the Note Ordinance. Interest shall cease to accrue on the date this Note is prepaid in full.

Individual advances under this Note may be designated as a "qualified tax-exempt obligation" within the meaning of Section 265(b) of the Code, subject to written approval of Bond Counsel, and shall be accompanied by a federal tax certificate and Internal Revenue Service Form 8038-G.

The City has covenanted with the owner of this Note that it will issue and sell limited tax general obligation bonds in an aggregate principal amount sufficient, with such other money of the City available for such purposes as the Council may, from time to time appropriate and set aside, to pay the principal of and interest on this note when due and will thereupon redeem this Note. The City further covenants that it will levy taxes annually upon all the taxable property in the City within the levy limits permitted to cities without a vote of the electors and in amounts sufficient, with other monies legally available therefor, to pay the principal of and interest on this Note as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest.

This Note shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Note Ordinance until the Certificate of Authentication hereon shall have been manually signed by the Note Registrar.

This Note is issued pursuant to the Constitution and laws of the State of Washington, and duly adopted ordinances of the City, to provide interim financing for projects included in the City's Capital Investment Program and to

repay the City's outstanding Limited Tax General Obligation Bond Anticipation Note, 2008.

The Note is not transferable unless (i) the Registered Owner's corporate name is changed and the transfer is necessary to reflect such change; or (ii) the transferee is a successor in interest of the Registered Owner by means of a corporate merger, an exchange of stock, or a sale of assets.

It is hereby certified and declared that all acts, conditions and things required to be done precedent to and in the issuance of this Note have happened, been done and performed and that the total indebtedness of the City including this Note, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Bellevue, Washington, has caused this Note to be signed by the facsimile or manual signature of its Mayor, to be attested by the facsimile or manual signature of its Clerk, and the official seal of the City to be impressed or imprinted hereon, this \_\_\_ day of October, 2009.

CITY OF BELLEVUE, WASHINGTON

By           /s/ manual or facsimile            
Mayor

ATTEST:

          /s/ manual or facsimile            
Clerk

The Certificate of Authentication for the Note shall be in substantially the following form and shall appear on the front of the Note:

CERTIFICATE OF AUTHENTICATION

Date of Authentication:

This is the City of Bellevue, Washington, Limited Tax General Obligation Bond Anticipation Note, 2009, dated October \_\_\_, 2009, as described in the within-referenced Ordinance No. \_\_\_\_\_ of the City.

FINANCE DIRECTOR  
as Note Registrar

By \_\_\_\_\_

Section 13. Execution of the Note. The Note shall be signed on behalf of the City by the manual or facsimile signature of the Mayor, shall be attested by the manual or facsimile signature of the City Clerk, and shall have the official corporate seal of the City impressed or imprinted thereon.

Only such Note as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Note Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance.

Such Certificate of Authentication shall be conclusive evidence that the Note so authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this ordinance.

In case either of the officers of the City who shall have executed the Note shall cease to be such officer or officers of the City before the Note so signed shall have been authenticated or delivered by the Note Registrar, or issued by the City, such Note may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the City as though those who signed the same had continued to be such officers of the City. The Note may also be signed and attested on behalf of the City by such persons as at the actual date of execution of such Note shall be the proper officers of the City although at the original date of such Note any such person shall not have been such officer.

Section 14. Refunding Plan; Application of Proceeds of the Note.

(a) *Refunding Plan.* On the date of issuance of the Note, an amount shall be drawn on the Note sufficient to pay and redeem in full the 2008 Note. No Request for Draw need be executed or delivered by the City for this draw on the Note. This draw on the Note shall bear interest at the Tax-Exempt BQ Fixed Rate or the Tax-Exempt NBQ Fixed Rate, as designated by the City in accordance with the provisions of Section 19.

(b) *Application of Note Proceeds.* Other proceeds of draws on the line of credit established by the Note shall be deposited into the Project Fund and used to finance the Projects and pay the costs of issuing the Note.

Section 15. Sale of the Note. The City hereby accepts the Bank's Proposal in accordance with the terms contained in this ordinance and the Bank's Proposal, which is attached as Exhibit A. The Finance Director is hereby authorized to agree to any other terms, conditions and covenants that are in the best interests of the City and in accordance with the Bank's Proposal.

The appropriate City officials are hereby authorized and directed to do everything necessary for prompt issuance, execution and delivery of the Note and for the proper application and use of the proceeds thereof. Upon delivery of the Note, the City shall pay to the Bank a fee equal to \$7,500, and reimburse the Bank for its legal fees in an amount not to exceed \$1,200 which payments shall be made by check, wire transfer or other mutually acceptable means. The City shall thereafter pay to the Bank in arrears, semi-annually on each interest payment date, and at maturity or prepayment in full of the Note, an unused commitment fee equal to 0.35% per annum of the difference between \$30,000,000 and the average principal amount outstanding under the Note for the preceding semi-annual period, calculated on the basis of actual number of days elapsed in a 360-day year.

Section 16. General Authorization; Ratification of Prior Acts. The Finance Director and other appropriate officers of the City are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 17. Ongoing Disclosure; Information to be Provided to Bank. With respect to the Note, the City is exempt from the official statement and ongoing disclosure requirements of the Rule.

While the Note is outstanding, the City will provide the following information to the Bank:

- (1) Audited financial statements within 10 days after they are published;
- (2) Unaudited annual financial statements as soon as available and in any event within seven months following the end of each fiscal year;
- (3) The City's annual budget within 30 days after adoption; and
- (4) Such other information as may be reasonably requested by the Bank from time to time.

Section 18. Interest Rate Upon Default. If (1) there occurs any nonpayment of principal, interest, fees or other amounts when due under the Note or this ordinance, or (2) failure to maintain the tax-exempt status or status as a "qualified tax-exempt obligation" of interest on draws on the Note that bear interest at tax-exempt rates, then the Bank at its option may increase the interest rate on such amounts drawn on the Note by two (2.0%) percentage points.

Section 19. Tax Covenant. The Note may bear interest at taxable or tax-exempt rates, as set forth in the definitions of the Permitted Interest Rates. The City covenants to take all actions required to maintain the tax-exempt status of interest on amounts drawn on the Note bearing interest at tax-exempt rates, under Section 103 of the Code as set forth in the Federal Tax Certificate.

The initial tax-exempt draw on the Note is subject to the written approval of Bond Counsel and must be accompanied by a Federal Tax Certificate and an Internal Revenue Service Form 8038-G prepared by Bond Counsel. Subsequent draws shall not require approval of Bond Counsel. Upon the initial tax-exempt draw under the Note, that draw and subsequent draws bearing interest at the Tax-Exempt BQ Daily Floating Rate and the Tax-Exempt BQ Fixed Rate may be designated as "qualified tax-exempt obligations" within the meaning of Section 265(b) of the Code, if the City does not reasonably expect to issue more than \$30 million in tax-exempt debt during the calendar year of the first draw. Whether such draws are qualified-tax exempt obligations shall be reflected in the Federal Tax Certificate and an Internal Revenue Service Form 8038-G.

Section 20. Reimbursement. Upon a determination by the Finance Director that the costs of one or more capital projects are expected to be reimbursed from the proceeds of the Note, the Finance Director is authorized and directed to execute a certificate of official intent. Each certificate so executed shall become a part of the official records of the City available for public inspection and review.

Section 21. Severability. 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 Note.

Section 22. Effective Date. This ordinance shall become effective five days after its passage and publication, as required by law.

Passed by the City Council this 5<sup>th</sup> day of October, 2009 and signed in authentication of its passage this 5<sup>th</sup> day of October, 2009.

(SEAL)

  
\_\_\_\_\_  
Grant S. Degginger, Mayor

Approved as to form:

Lori M. Riordan, City Attorney



\_\_\_\_\_  
Mary Kate Berens, Deputy City Attorney

Attest:

  
\_\_\_\_\_  
Myrna L. Basich, City Clerk

Published October 8, 2009

Exhibit A  
Bank's Proposal



**Nancy Nuereberg**  
Senior Vice President

Government Banking West  
WA1-501-34-03  
800 5<sup>th</sup> Avenue, 34<sup>th</sup> Floor  
Seattle, WA 98104

Tel 206.358.6279  
Fax 206.358.8818  
nancy.d.nuereberg@bankofamerica.com

September 24, 2009

Zemed Yitref  
Investment and Debt Manager  
City of Bellevue  
450 110th Ave. NE  
P.O. Box 90012  
Bellevue, WA 98009

Re: City of Bellevue, Washington, LTGO Bond Anticipation Note (Line of Credit)

Dear Zemed:

Bank of America, N. A. is pleased to provide the attached proposal for an increase to the existing LTGO Line of Credit for the City of Bellevue. The Credit Facility will provide proceeds to be used by the City to finance various projects.

The rates and terms for the Credit Facility are attached to this letter, as Exhibit A, Summary of Terms and Conditions. The terms and conditions are not all-inclusive, but generally describe the proposal offered to the City.

This Summary of Terms and Conditions contains confidential and proprietary loan structuring and pricing information. Except for disclosure on a confidential basis to your accountants, attorneys and other professional advisors retained by you in connection with the credit facility contained in this Summary of Terms and Conditions or as may be required by law, the contents of the Summary of Terms and Conditions may not be disclosed in whole or in part to any other person or entity without our prior written consent, provided that nothing herein shall restrict disclosure of information relating to the tax structure or tax treatment of the proposed credit facilities.

We appreciate the opportunity to present you with this proposal. Please call either myself at (206) 358-6279 or Brennan Church at (206) 358-3585 to discuss any questions you may have regarding this proposal.

Sincerely,  
Bank of America, N.A.

Nancy Nuereberg, SVP  
Senior Product Delivery Officer

cc: Pete Sullivan, Bank of America  
Brennan Church, Bank of America

**EXHIBIT A**  
**SUMMARY OF TERMS AND CONDITIONS**  
**September 24, 2009**

**BORROWER:** City of Bellevue, Washington (the "Borrower").

**LENDER:** Bank of America, N.A. (the "Bank").

**CREDIT FACILITY:** Limited Tax General Obligation Bond Anticipation Note, Revolving Line of Credit (the "Credit Facility").

**AMOUNT OF CREDIT FACILITY:** Amend to increase the amount of the Credit Facility from \$15,000,000 to \$30,000,000.

**PURPOSE:** To finance various projects included in the Borrower's Capital Investment Program.

**MATURITY DATE:** Four years from the closing date, estimated to be October 20, 2013.

**INTEREST RATE:** The following interest rate options will be available to the Borrower:

**Tax-Exempt – Bank Qualified options:**

**BBA LIBOR Daily Floating Rate:** A rate per year equal to 65% of the BBA LIBOR Daily Floating Rate, *plus* the applicable spread from the pricing table below. BBA LIBOR Daily Floating Rate is subject to a floor of 0.75% for purposes of this rate formula.

**LIBOR Fixed Rate:** A rate per year equal to 65% of the LIBOR 1-12 Month Fixed Rate, *plus* the applicable spread from pricing table below. The LIBOR Fixed Rate is subject to a floor of 0.75% for purposes of this rate formula.

**Tax-Exempt – Non-Bank Qualified options:**

**BBA LIBOR Daily Floating Rate:** A rate per year equal to 65% of the BBA LIBOR Daily Floating Rate, *plus* the applicable spread from the pricing table below. BBA LIBOR Daily Floating Rate is subject to a floor of 0.75% for purposes of this rate formula.

**LIBOR Fixed Rate:** A rate per year equal to 65% of the LIBOR 1-12 Month Fixed Rate, *plus* the applicable spread from pricing table below. The LIBOR Fixed Rate is subject to a floor of 0.75% for purposes of this rate formula.

**Taxable options:****BBA LIBOR Daily Floating Rate:**

A rate per year equal to the BBA LIBOR Daily Floating Rate, *plus* the applicable spread from the pricing table below. BBA LIBOR Daily Floating Rate is subject to a floor of 0.75% for purposes of this rate formula.

**LIBOR Fixed Rate:**

A rate per year equal to the LIBOR 1-12 Month Fixed Rate, *plus* the applicable spread from pricing table below. The LIBOR Fixed Rate is subject to a floor of 0.75% for purposes of this rate formula.

**Rate definitions:**

The BBA LIBOR Daily Floating Rate is a fluctuating rate of interest equal to the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) as determined for each banking day at approximately 11:00 a.m. London time two (2) London Banking Days prior to the date in question, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a one month term, as adjusted from time to time in the Bank's sole discretion for reserve requirements, deposit insurance assessment rates and other regulatory costs. If such rate is not available at such time for any reason, then the rate for that interest period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars. "BBA LIBOR Daily Floating Rate" is adjusted every date of such change in the 1-month BBA LIBOR.

"LIBOR" means, for any applicable interest period, the rate per annum equal to the British Bankers Association LIBOR Rate ("BBA LIBOR"), as published by Reuters (or other commercially available source providing quotations of BBA LIBOR as selected by the Bank from time to time) at approximately 11:00 a.m. London time two (2) London Banking Days before the commencement of the interest period, for U.S. Dollar deposits (for delivery on the first day of such interest period) with a term equivalent to such interest period. If such rate is not available at such time for any reason, then the rate for that interest period will be determined by such alternate method as reasonably selected by the Bank. A "London Banking Day" is a day on which banks in London are open for business and dealing in offshore dollars.

Minimum LIBOR Fixed Rate advance is \$100,000.

All calculations of interest and fees shall be made on the basis of actual number of days elapsed in a 360-day year.

**ORIGINATION FEE:**

Borrower agrees to pay Bank an amendment fee of 0.05% of the amount of the increase to the Credit Facility (\$7,500). This fee shall be deemed fully earned and payable upon closing.

**UNUSED COMMITMENT FEE:**

Borrower agrees to pay to Bank semi-annually an unused commitment fee in an amount per annum as per the Pricing Table below. The fee is calculated on the difference between the maximum amount of the Credit Facility and the average principal amount outstanding under the Credit Facility for the preceding semi-annual period, calculated on the basis of actual number of days elapsed in a 360-day year.

**PRICING TABLE:**

<u>Taxable</u>		<u>Tax-Exempt BQ</u>		<u>Tax-Exempt NBQ</u>	
Unused		Unused		Unused	
<u>Rate</u>	<u>Fee</u>	<u>Rate</u>	<u>Fee</u>	<u>Rate</u>	<u>Fee</u>
L + 90 bp	35 bp	65% L + 80 bp	35 bp	65% L + 163 bp	35 bp

**DRAW PROCEDURES:**

- Draws may be requested in amounts as needed in a sum of up to the total Amount of the Credit Facility.
- The Credit Facility is a revolving line of credit and amounts drawn on the Credit Facility may be redrawn after payment.
- LIBOR Fixed Rate Draws may be requested by noon (Seattle time), 2 London banking days prior to the draw.

**REPAYMENT:**

The Credit Facility shall be repaid in semi-annual payments of accrued interest each June 1 and December 1.

The entire outstanding principal balance is payable on the Maturity Date.

**SECURITY:**

Limited Tax General Obligation of Borrower.

**PREPAYMENT:**

The Borrower may prepay any variable rate loan under the Credit Facility in whole or in part at any time without penalty, except for reimbursement of Bank's breakage and redeployment costs in the case of prepayment of LIBOR based borrowings (does not apply to the BBA LIBOR Daily Floating Rate).

**REPRESENTATIONS AND WARRANTIES:**

Usual and customary for transactions of this type. In addition, Borrower shall provide a legal opinion of nationally recognized bond counsel, in form and substance acceptable to Bank and its legal counsel, (i) the Ordinance and all documents related to the Credit Facility have been properly adopted, authorized and executed; (ii) the Ordinance and all documents related to the Credit Facility constitute a legally binding obligation of the Borrower, enforceable according to their terms (subject to standard exceptions), (iii) interest payable on the Credit Facility is excludable from net income for purposes of federal income taxes (as applicable), and (iv) Borrower has designated the Credit Facility as a "qualified tax-exempt obligation (as applicable).

**EVENTS OF DEFAULT:**

If there occurs (a) any nonpayment of principal, interest, fees or other amounts when due, or (b) failure to maintain the tax exempt status of the Credit Facility (if applicable), then the Bank may increase the interest rate spread by two percentage points.

**OTHER TERMS AND CONDITIONS:**

All other terms and conditions shall remain unchanged.

**EXPENSES:** All costs of Borrower's outside legal counsel shall be the responsibility of the Borrower. Borrower shall pay all reasonable costs and expenses associated with the preparation and review of all documentation executed in connection with the Credit Facility, including Bank's attorneys' fees, whether or not the Credit Facility is closed.

**DOCUMENTATION:** Borrower agrees to execute documentation in form and in substance satisfactory to Bank and its legal counsel, including without limitation, a Promissory Note and Ordinance prepared by Bond Counsel and opinions of Bond Counsel and such other legal opinions as are deemed necessary by the Bank or are customary for a transaction of this type.

**EXPIRATION OF TERMS AND CONDITIONS:** Unless rescinded earlier, consideration of a financing based on the terms and conditions presented in this term sheet shall automatically expire on October 30, 2009.

**FOR DISCUSSION PURPOSES ONLY:** **This Summary of Terms and Conditions does not constitute a commitment to lend by Bank of America or any of its affiliates and is presented for discussion purposes only. The actual terms and conditions upon which Bank of America may extend credit to Borrower is subject to satisfactory completion of due diligence, necessary credit approval and such other terms and conditions as determined by Bank of America, in its sole discretion.**

Exhibit B

Form of Request for Draw

CITY OF BELLEVUE, WASHINGTON  
LINE OF CREDIT

**REQUEST FOR DRAW NO. \_\_\_\_\_**

TO: \_\_\_\_\_

On behalf of the City of Bellevue, Washington (“City”), I hereby certify that:

1. I am the City Manager/Finance Director of the City, or his/her authorized designee, authorized by Ordinance No. \_\_\_\_ of the City Council passed on October 5, 2009 (the “Ordinance”) to request this draw on the line of credit established by the Note and to make the representations on behalf of City set forth herein.
  
2. City requests a draw in the amount of:  
  
\$ \_\_\_\_\_

The amount of this draw plus the current Outstanding Principal Balance on the line of credit established by the Note (excluding any portion of the Outstanding Principal Balance to be refinanced from proceeds of this draw) does not exceed \$30,000,000. Please disburse the draw to City on (insert date), by depositing funds to City as follows:

\_\_\_\_\_  
ABA Number \_\_\_\_\_  
For the Account of City  
Account No. \_\_\_\_\_  
City — Draw No. \_\_\_\_\_

3. This draw shall bear interest at (check one of the following):  
  
 the Tax-Exempt BQ Daily Floating Rate  
  
 the Tax-Exempt BQ Fixed Rate for a \_\_\_\_-Month LIBOR Interest Rate Period (must be a whole number from 1 to 12 and draw must be in a minimum amount of \$100,000)  
  
 the Tax-Exempt NBQ Daily Floating Rate

- the Tax-Exempt NBQ Fixed Rate for a \_\_\_\_-Month LIBOR Interest Rate Period (must be a whole number from 1 to 12 and draw must be in a minimum amount of \$100,000)
- the Taxable Daily Floating Rate
- the Taxable Fixed Rate for a \_\_\_\_-Month LIBOR Interest Rate Period (must be a whole number from 1 to 12 and draw must be in a minimum amount of \$100,000)

4. The City acknowledges that the designation of "Tax-Exempt" requires satisfaction of the conditions set forth in Section 19 of the Ordinance and that all tax-exempt draws shall be used for qualifying tax-exempt purposes as provided in the Federal Tax Certificate for the Note. **The initial tax-exempt draw on the Note is subject to the written approval of Bond Counsel and must be accompanied by a Federal Tax Certificate and an Internal Revenue Service Form 8038-G prepared by Bond Counsel. Subsequent draws shall not require approval of Bond Counsel.**
5. The draw will be expended to finance or refinance the Projects, as authorized by the Ordinance.
6. Except as previously disclosed to the Bank, there is no action, suit, proceeding or investigation at law or in equity before or by any court or governmental body pending or, to the best of the knowledge of City, threatened against the City to restrain or enjoin passage of the Ordinance or the execution and delivery of the Note, or the collection and application of funds as contemplated by the Ordinance and the Note, which, in the reasonable judgment of City, would have a material and adverse effect on the ability of City to pay the amounts due under the Ordinance and the Note.
7. All representations of City in the Ordinance were true and correct when made, and remain true and correct on this date.

Dated as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**CITY OF BELLEVUE, WASHINGTON**

By: \_\_\_\_\_  
 City Manager/Finance Director/Designee