

Kelso City Council Agenda

Special Council Meeting, 4:30 pm
December 7, 2011
Council Chambers
203 S. Pacific
Kelso, WA 98626



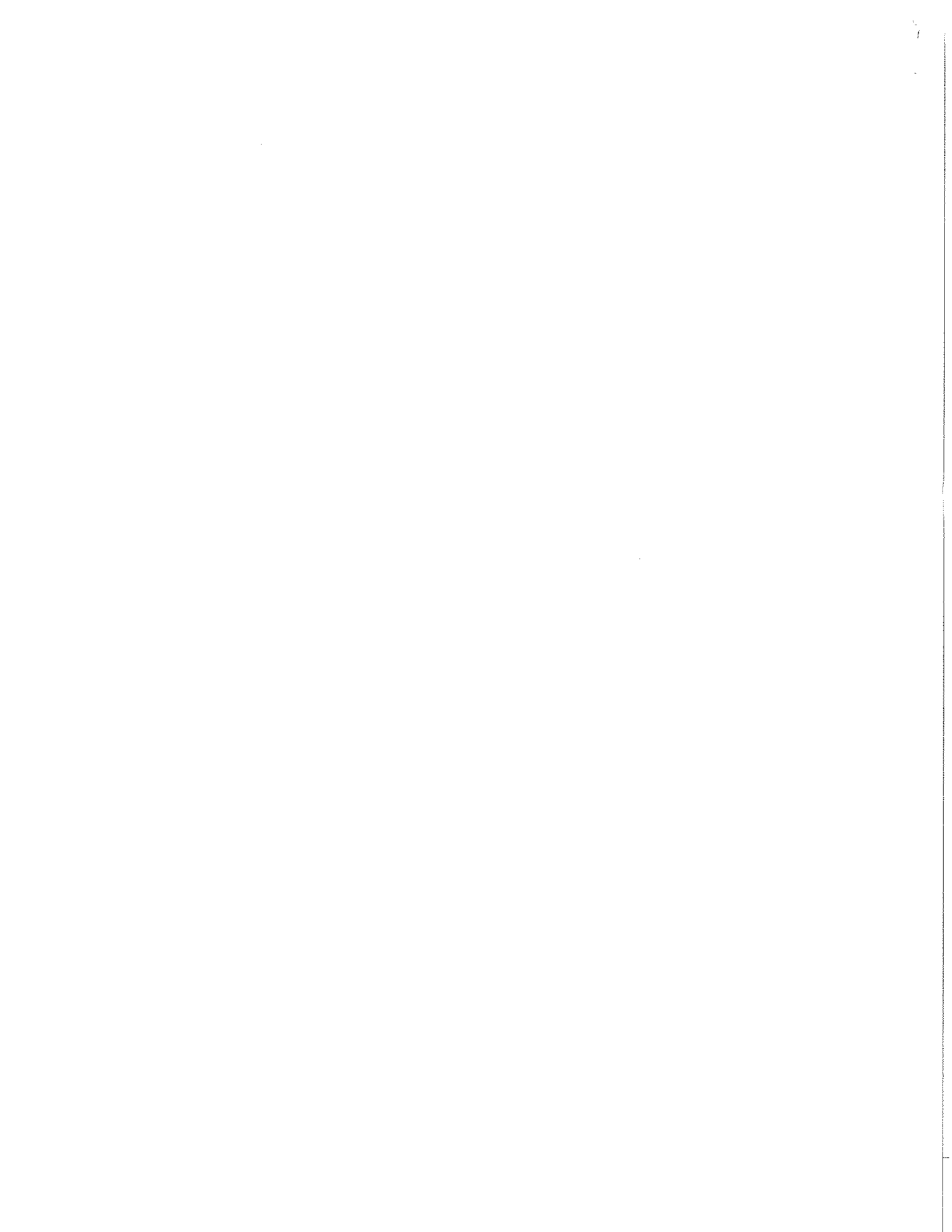
Special accommodations for the handicapped and hearing impaired are available by arrangement through the City Clerk's Office at 360-423-0900

Call to Order:

Council Business:

1. Ordinance, 2nd Reading
 - a. Budget Revision #5, 2011
2. Ordinance, 2nd Reading
 - a. Bond Refinance

Adjournment:



AGENDA SUMMARY SHEET

AGENDA ITEM: Ordinance 2nd reading.
Budget revision #5 for the 2011 fiscal year.

SUBMITTED BY: Brian Butterfield

AGENDA ITEM # _____

FOR AGENDA OF: 12/7/2011

ORIGINATING DEPT: Finance

DATE SUBMITTED: 11/30/2011

COST OF ITEM: _____

AMT. BUDGETED _____

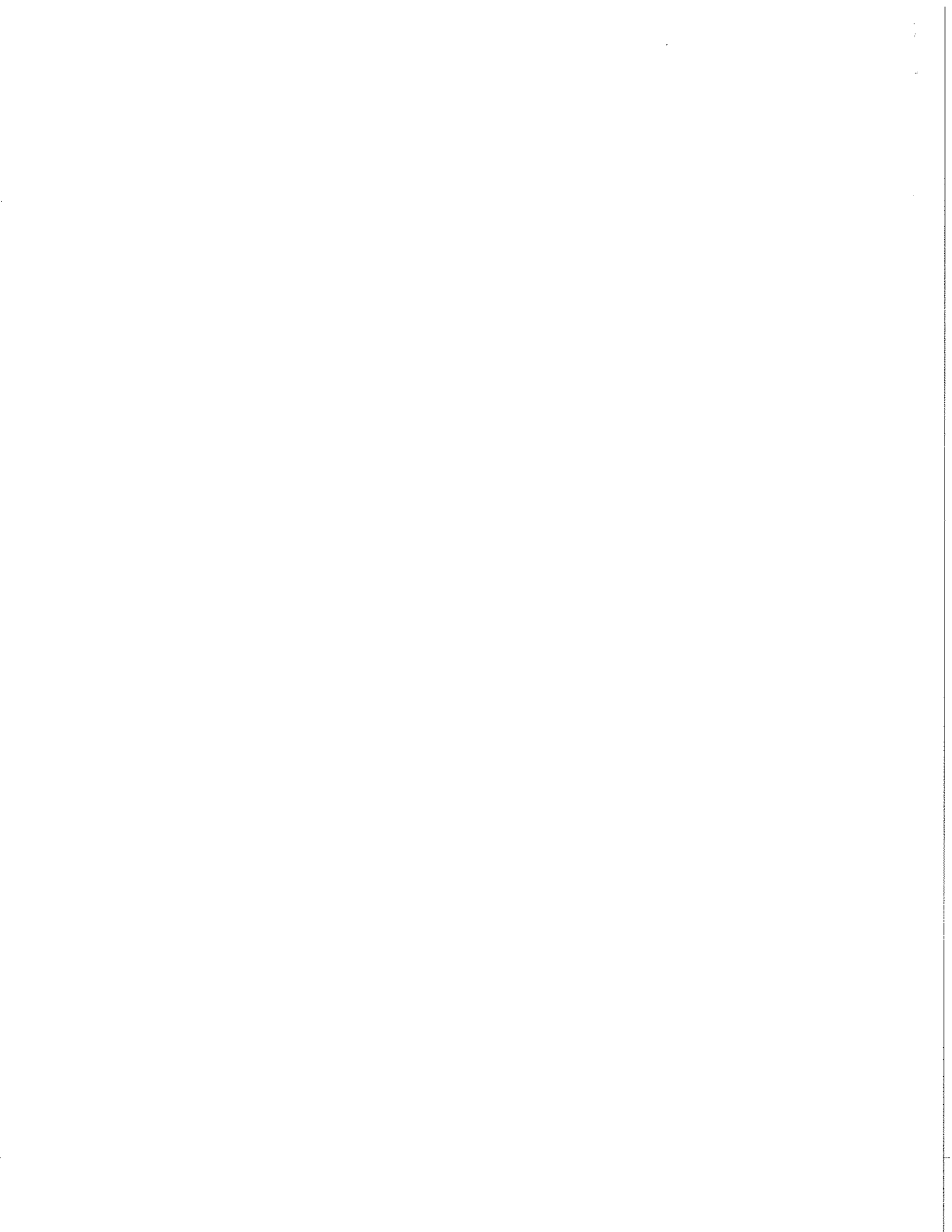
CITY ATTY. APPROVAL _____

CITY MGR. APPROVAL _____

AGENDA ITEM PAPERWORK:

SUMMARY STATEMENT/DEPT. RECOMMENDATION:

This revision is for the early pay-off of the 2003 G.O. Bond. The 2003 G.O. Bond will be paid off with proceeds from the 2011 G.O. Refunding Bond.



ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KELSO AMENDING THE 2011 BUDGET TO REFLECT REVENUES AND APPROPRIATE FUNDS TO COVER EXPENDITURES OVER AND ABOVE THOSE ANTICIPATED AT THE TIME SAID BUDGET WAS ADOPTED.

THE CITY COUNCIL OF THE CITY OF KELSO DO ORDAIN AS FOLLOWS:

SECTION 1. That by reason of the inability of the City and its officials to foresee and compute with accuracy the actual revenue and necessary expenditures of public funds for the current expenses of the City, it is deemed necessary to make the following amendment to the budget by increasing the following line items by the amounts set forth below for the 2011 Budget, to-wit:

GENERAL FUND

Revenues

206-46-391-10-00	General Obligation Bond Proceeds	\$ 2,746,200.00
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Expenditures

206-46-591-19-71-0	Principal 2003 G.O. Bond	\$ 2,660,000.00
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206-46-592-19-83-0	Interest 2003 G.O. Bond	\$ 16,200.00
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206-46-592-19-89-0	Debt Issue Costs	\$ <u>70,000.00</u>
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\$ 2,746,200.00

SECTION 2. It is hereby ordered that the aforesaid sum be and the same is hereby appropriated in excess of the budget of the City of Kelso for 2011 and further that said budget be and the same is hereby amended accordingly.

SECTION 3. This Ordinance shall be in full force and effect five days after its passage and publication of summary as required by law.

ADOPTED by the City Council and **SIGNED** by the Mayor this _____ day of December, 2011.

MAYOR

ATTEST/AUTHENTICATION:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PUBLISHED: _____

AGENDA SUMMARY SHEET

AGENDA ITEM: 2nd Reading of an
Ordinance providing for the issuance
of \$2,730,000 par value Limited Tax
General Obligation Refunding Bonds, 2011,
to refund the outstanding portion of the
City's 2003 Limited Tax General Obligation
Bonds.

SUBMITTED BY: Brian Butterfield

AGENDA ITEM # _____
FOR AGENDA OF: 12/7/2011
ORIGINATING DEPT: Finance
DATE SUBMITTED: 11/30/2011
COST OF ITEM: _____
AMT. BUDGETED _____

CITY ATTY. APPROVAL _____
CITY MGR. APPROVAL _____

AGENDA ITEM PAPERWORK:

See attached draft ordinance. Final ordinance will not be available until 12/6/2011.

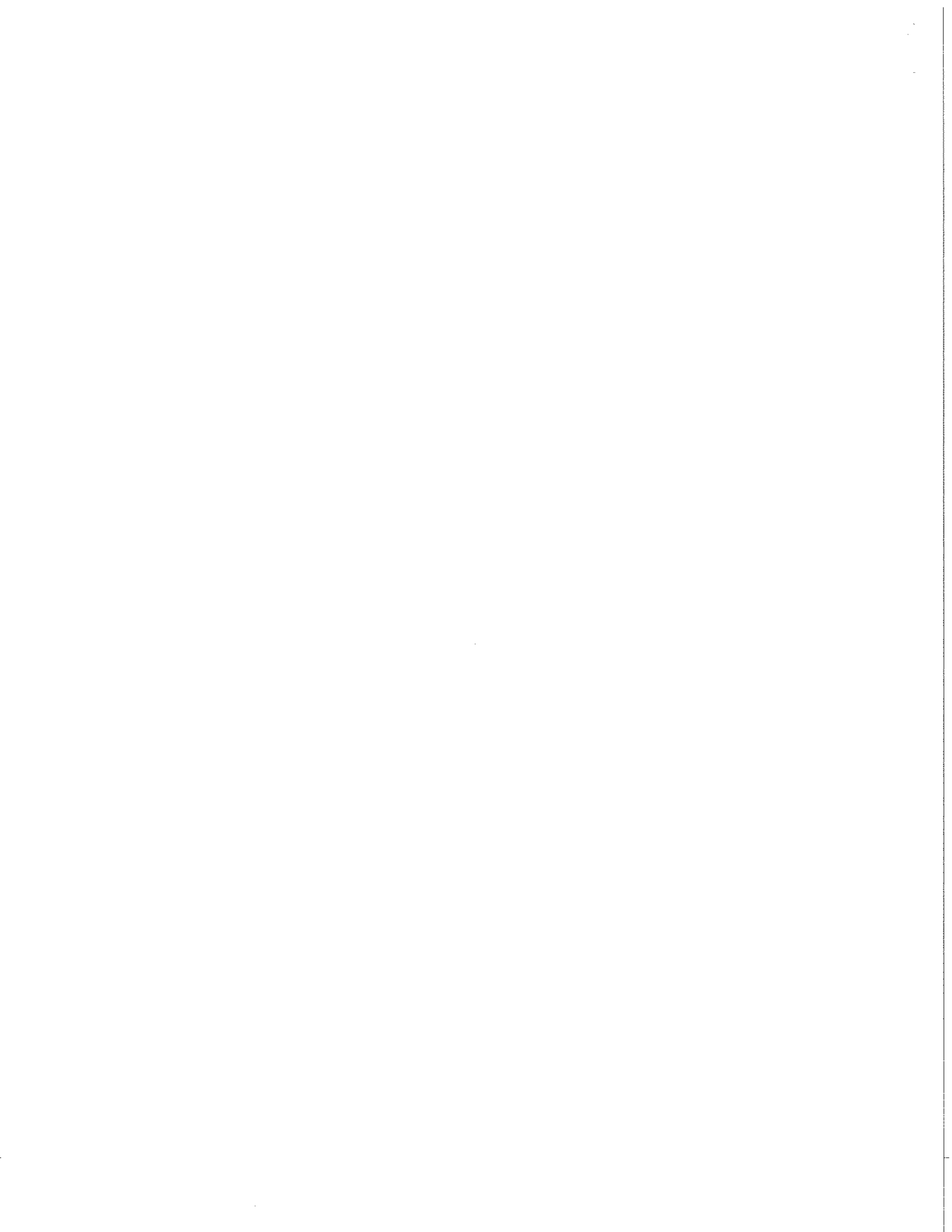
SUMMARY STATEMENT

On June 17, 2003, the City issued Limited Tax General Obligation Bonds in the amount of \$3,080,000 for construction of the new city hall. The 2003 Bonds mature on December 1, 2028 with varying interest rates ranging from 3.20% to 4.50%.

Currently, we can refund these bonds with an estimated average interest rate of 3.60%. Over the remaining 17 year period this would net the City approximately \$145,000 savings in interest. Final interest rates will be set on December 6, 2011. The draft ordinance in the council packet does not include the final interest rates.

Jim Nelson from Martin Nelson & Company will give a brief presentation on the upcoming refunding bond and will be available to answer Council questions.

City staff recommends approval of the bond refunding ordinance on its first reading. The second reading and approval of the Contract of Purchase will take place at a Special Meeting on December 7, 2011.



DRAFT DATED 11/30/2011

CITY OF KELSO, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Kelso, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of \$_____ par value of Limited Tax General Obligation Refunding Bonds, 2011, to carry out a current refunding of the City's Limited Tax General Obligation Bonds, 2003; and to pay the administrative costs of such refunding and the costs of issuance and sale of such bonds; 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 The Bank of New York Mellon, of New York, New York, as refunding trustee; providing for the call, payment and redemption of the outstanding bonds to be refunded; fixing the terms and covenants of the bonds; and providing for related matters.

Passed December 7, 2011

This document prepared by:

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Seattle, Washington 98101
(206) 447-4400*

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CITY OF KELSO, WASHINGTON

ORDINANCE NO. _____

AN ORDINANCE of the City of Kelso, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of \$_____ par value of Limited Tax General Obligation Refunding Bonds, 2011, to carry out a current refunding of the City's Limited Tax General Obligation Bonds, 2003; and to pay the administrative costs of such refunding and the costs of issuance and sale of such bonds; 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 The Bank of New York Mellon, of New York, New York, as refunding trustee; providing for the call, payment and redemption of the outstanding bonds to be refunded; fixing the terms and covenants of the bonds; and providing for related matters.

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

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

(a) "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.

(b) "Authorized Denomination" means \$5,000 or any integral multiple thereof within a maturity.

(c) "Beneficial Owner" means the owner of any beneficial interests in the Bonds.

(d) "Bond Counsel" means a lawyer or a firm of lawyers, selected by the City, of nationally recognized standing in matters pertaining to bonds issued by states and their political subdivisions.

(e) "Bond Fund" means the Limited Tax General Obligation Refunding Bond Fund, 2011, created by this ordinance for the payment of the Bonds.

(f) "Bond Purchase Contract" means an offer to purchase the Bonds presented by the Underwriter, setting forth certain terms and conditions of the issuance, sale and delivery of the Bonds.

(g) "Bond Register" means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the Bonds.

- (h) "Bond Registrar" means the Fiscal Agent.
- (i) "2003 Bonds" means the City's \$3,080,000 par value Limited Tax General Obligation Bonds, 2003, authorized by Ordinance 03-3515, passed by the City Council on June 3, 2003.
- (j) "Bonds" means the \$_____ par value Limited Tax General Obligation Refunding Bonds, 2011, of the City issued pursuant to and for the purposes provided in this ordinance.
- (k) "City" means the City of Kelso, Washington, a municipal corporation duly organized and existing under the laws of the State.
- (l) "City Council" means the governing body of the City, acting in its legislative capacity.
- (m) "Code" means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.
- (n) "DTC" means The Depository Trust Company, New York, New York.
- (o) "Finance Director" means the Clerk/Finance Director of the City or the successor officer.
- (p) "Fiscal Agent" means the fiscal agent of the State, as the same may be designated by the State from time to time.
- (q) "Letter of Representations" means the Blanket Issuer Letter of Representations dated February 15, 2000, between the City and DTC.
- (r) "MSRB" means the Municipal Securities Rulemaking Board.
- (s) "Owners" means, without distinction, the Registered Owner(s) and the Beneficial Owner(s).
- (t) "Refunded Bond Ordinance" means Ordinance No. 03-3515 of the City passed on June 3, 2003, authorizing the issuance of the 2003 Bonds.
- (u) "Refunded Bonds" means the outstanding Limited Tax General Obligation Bonds, 2003, of the City maturing in the years 2012 through 2018, inclusive, 2023 and 2028, issued pursuant to the Refunded Bond Ordinance, the refunding of which has been provided for by this ordinance.
- (v) "Refunding Plan" means:
- (i) 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;

(ii) the call, payment, and redemption on January 24, 2012, of all of the Refunded Bonds at a price of par plus accrued interest; and

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

(w) "Refunding Trust Agreement" means a refunding trust agreement between the City and the Refunding Trustee substantially in the form of that which is on file with the Finance Director and by this reference incorporated herein.

(x) "Refunding Trustee" means The Bank of New York Mellon, New York, New York, serving as refunding trustee or any successor thereto.

(y) "Registered Owner" means the person in whose name a Bond is registered on the Bond Register. For so long as the City utilizes the book-entry system for the Bonds under the Letter of Representations, Registered Owner shall mean Cede & Co., as nominee for DTC.

(z) "Registration Ordinance" means City Ordinance No. 2952 establishing a system of registration for the City's bonds and other obligations.

(aa) "Rule 15c2-12" means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(bb) "SEC" means the United States Securities and Exchange Commission.

(cc) "State" means the State of Washington.

(dd) "Term Bonds" means those Bonds maturing in 20__.

(ee) "Undertaking" means the undertaking to provide continuing disclosure set forth in Section 18 of this ordinance.

(ff) "Underwriter" means Martin Nelson & Company, Inc.

Section 2. Recitals and Findings.

(a) Pursuant to the Refunded Bond Ordinance, the City previously issued the 2003 Bonds for the purpose of providing the funds to finance a portion of the construction of the new city hall, and by that ordinance reserved the right to redeem the 2003 Bonds prior to their maturity at any time on or after December 1, 2008, at a price of par plus accrued interest to the date fixed for redemption.

(b) There are presently outstanding \$2,660,000 par value of 2003 Bonds maturing on December 1 of each of the years 2012 through 2018, inclusive, 2023 and 2028, and bearing various interest rates from 3.20% to 4.50%.

(c) After due consideration, it appears to the City Council that the Refunded Bonds may be refunded by the issuance and sale of the Bonds authorized herein 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 carrying out the Refunding Plan. 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 pending payment and redemption of the Refunded Bonds.

(d) 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 bearing interest and maturing at such time or times as necessary to carry out the Refunding Plan be purchased out of the proceeds of the Bonds.

(e) The City Council deems it to be in the best interests of the City to issue and sell the Bonds to pay the cost of carrying out the Refunding Plan.

Section 3. Debt Capacity. The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 2011 is \$753,399,152.

(a) The City is authorized to incur voter-approved general obligation indebtedness for general municipal purposes in an amount up to 2½% of the value of the taxable property within the City, or \$18,834,978, less the amount of any general obligation indebtedness for general municipal purposes incurred without voter approval. As of December 31, 2010, the City had outstanding no voter-approved general obligation indebtedness for general municipal purposes.

(b) The City is authorized to incur general obligation indebtedness for general municipal purposes without voter approval in an amount up to 1½% of the value of the taxable property within the City, or \$11,300,987. As of December 31, 2010, the City had outstanding general obligation indebtedness for general municipal purposes without voter approval in the following amounts: \$249,913 for Public Works Trust Fund loans and \$2,770,000 aggregate principal amount of Limited Tax General Obligation Bonds, 2003, of which \$2,660,000 aggregate principal amount are the Refunded Bonds to be refunded with proceeds of the Bonds. After giving effect to the refunding of the Refunded Bonds, the City is authorized to incur general obligation indebtedness for general municipal purposes without voter approval in the amount of up to \$8,391,074. The aggregate principal amount of the Bonds is \$_____ and is issued within this limitation.

Section 4. Purpose and Authorization of Bonds. The City shall borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing that indebtedness in the amount of \$_____ to finance the cost of carrying out the Refunding Plan.

Section 5. Description of Bonds. The Bonds shall be called City of Kelso, Washington, Limited Tax General Obligation Refunding Bonds, 2011. The Bonds shall be issued in the aggregate principal amount of \$_____; shall be dated their date of initial

delivery to the Underwriter; shall be in Authorized Denominations; and shall be numbered separately in the manner and with any additional designation as the Bond Registrar deems necessary for purposes of identification.

The Bonds 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 June 1, 2012, to the maturity or earlier redemption of the Bonds; and shall mature on December 1 in years and amounts and bear interest at the rates per annum as set forth in Exhibit A, which is attached to this ordinance and incorporated by this reference.

Section 6. Bond Registrar; Registration and Transfer of Bonds.

(a) Registration 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.

(b) Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Register shall contain the name and mailing address of the Registered Owner of each Bond and the principal amount and number of each of the Bonds held by each Registered Owner.

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 the Registration Ordinance.

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 an 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 Owners.

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 Registered 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.

(c) DTC and the Book Entry System. 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 the 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 which 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 shall mean DTC, its nominee or successor depository and shall not mean the Beneficial Owners. 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 7. Form and Execution of Bonds. The Bonds shall be prepared in a form consistent with the provisions of this ordinance and State law and shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

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 Kelso, Washington, Limited Tax General Obligation Refunding Bonds, 2011, described in the Bond Ordinance." 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 manual or 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 manual or 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 8. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. For 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. If the Bonds cease to be in book-entry-only form, 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 or by electronic transfer on the interest payment date. The City shall not be required to make electronic transfers except to a Registered Owner of Bonds pursuant to a request in writing (and at the sole expense of that Registered Owner) received on or before 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 to the Bond Registrar.

Section 9. Redemption Provisions and Open Market Purchase of Bonds.

(a) The Bonds maturing in the years 2012 through 20__, 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, 20__, prior to their stated maturity dates at any time on or after December 1, 20__, as a whole or in part (within one or more maturities selected by the City), at par plus accrued interest to the date fixed for redemption.

(b) Mandatory Redemption. Bonds maturing in 20__ are Term Bonds and, if not redeemed under the optional redemption provisions set forth above or purchased in the open market under the provisions set forth below, shall be called for redemption at par plus accrued interest on December 1 in years and amounts as set forth in Exhibit A. If the City redeems under the optional redemption provisions, purchases in the open market or defeases Term Bonds, the par amount of the Term Bonds so redeemed, purchased or defeased (irrespective of their actual redemption or purchase prices) shall be credited against one or more scheduled mandatory redemption amounts for those Term Bonds. The City shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation prior to the earliest mandatory redemption date for that maturity of Term Bonds for which notice of redemption has not already been given.

(c) Partial Redemptions. Portions of the principal amount of any Bond, in any Authorized Denomination, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the Registered Owner, without charge, a new Bond (or Bonds, at the option of the Registered Owner) of the same maturity and interest rate in any Authorized Denomination in the aggregate principal amount remaining unredeemed.

(d) Selection of Bonds for Redemption. If fewer than all of the outstanding Bonds are to be redeemed prior to maturity, the City shall select the maturities [or annual mandatory redemption amounts] to be redeemed. If fewer than all of the outstanding Bonds within a maturity [or annual mandatory redemption amount] are to be redeemed prior to their maturity [or scheduled mandatory redemption date], the Bonds to be redeemed shall be selected for redemption randomly within such maturity [or annual mandatory redemption amount] in such

manner as the Bond Registrar shall determine. 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.

(e) Notice of Redemption. While the Bonds are held by DTC in book-entry only form, any notice of redemption shall be given at the time, to the entity and in the manner required by DTC in accordance with the Letter of Representations, and the Bond Registrar shall not be required to give any other notice of redemption except as otherwise expressly provided in this ordinance. If the Bonds cease to be in book-entry only form, unless waived by any Registered Owner of the Bonds to be redeemed, the City shall cause notice of any intended redemption of Bonds to be given by the Bond Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner 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.

In the case of an optional redemption, the notice may state that the City retains the right to rescind the redemption notice and the related optional redemption of Bonds by giving a notice of rescission to the affected Registered Owners at any time on or prior to the scheduled optional redemption date. Any notice of optional redemption that is so rescinded shall be of no effect, and the Bonds for which the notice of optional redemption has been rescinded shall remain outstanding.

In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB, consistent with the Undertaking, to any nationally recognized rating agency which at the time maintains a rating on the Bonds at the request of the City, and to such other persons and with such additional information as the Finance Director shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds.

(f) Effect of Redemption. Notice of redemption having been given as provided in this ordinance and not having been rescinded, the Bonds subject to redemption shall become due on the day fixed for redemption. Interest on such Bonds shall cease to accrue on the date fixed for redemption unless such Bonds are not paid when properly presented as set forth above.

(g) Open Market Purchase. 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 acceptable to the City plus accrued interest to the date of purchase.

(h) Cancellation of Bonds. All Bonds purchased or redeemed under this section shall be canceled.

Section 10. Failure To Pay Bonds. If any Bond is not paid when properly presented at its maturity or date fixed for redemption, 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 date fixed for redemption 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 and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 11. Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to include in its budget and levy taxes annually, within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City, on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Bonds. 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 12. Tax Covenants; Designation of Bonds as "Qualified Tax-Exempt Obligations."

(a) 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 Finance Director is authorized and directed to adopt and implement on behalf of the City procedures to facilitate compliance by the City with the covenants in this Section 12(a) and the applicable requirements of the Code that must be satisfied after the issue date to maintain the tax exemption for interest on the Bonds after the issue date.

(b) Small Governmental Issuer Arbitrage Rebate Exception and Designation of Bonds as "Qualified Tax-Exempt Obligations." The City finds and declares that (i) it is a duly organized and existing governmental unit of the State and has general taxing power; (ii) no Bond which is part of this issue of Bonds is a "private activity bond" within the meaning of Section 141 of the Code; (iii) at least 95% of the net proceeds of the Bonds will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (iv) the aggregate face amount of all tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) issued by the City and all entities subordinate to the City (including any entity that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$5,000,000; and (v) 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 therefore certifies that the Bonds are eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and 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 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 (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 (the “trust account”), then all right and interest of the Registered 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 Registered 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 Registered 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.

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 and Deposit of Bond Proceeds. The Bond Fund is hereby created and established in the office of the Finance Director as a special fund designated the Limited Tax General Obligation Refunding Bond Fund, 2011, for the purpose of paying principal of and interest on the Bonds. All taxes and other amounts allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund.

The principal proceeds and premium, if any, received from the sale and delivery of the Bonds shall be deposited, invested and used in accordance with the Refunding Plan and Section 15 of this ordinance.

Section 15. Refunding of the Refunded Bonds.

(a) Appointment of Refunding Trustee. The Bank of New York Mellon, of New York, New York, is appointed Refunding Trustee.

(b) Use of Bond Proceeds; Acquisition of Acquired Obligations. All of the proceeds of the sale of the Bonds shall be deposited immediately upon the receipt thereof with the Refunding Trustee and used to discharge the obligations of the City relating to the Refunded Bonds under the Refunded Bond Ordinance 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 shall be 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 carry out the Refunding Plan shall be returned to the City at the time of delivery of the Bonds to the Underwriter 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, (i) in the opinion of 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 (ii) 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 or the Refunded Bonds to be arbitrage bonds within the meaning of Section 148 of the Code and regulations thereunder in effect on the date of such substitution and applicable to obligations issued on the issue dates of the Bonds and the Refunded Bonds, as applicable, and that the City obtain, at its expense: (1) a verification by a nationally recognized independent certified public accounting firm acceptable to the Refunding Trustee confirming that the payments of principal of and interest on the Substitute Obligations, 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 Bond Counsel to the effect that the disposition and substitution or purchase of the Substitute Obligations, 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 and the Refunded Bonds. Any surplus money resulting from the sale, transfer, other disposition, or redemption of the Acquired Obligations and the Substitute Obligations shall be released from the Refunding Trustee and transferred to the City to be used for any lawful City purpose.

(d) Administration of Refunding Plan. The Refunding Trustee is authorized and directed to purchase the Acquired Obligations (or Substitute Obligations) and to make the payments required to be made by the Refunding Plan from the Acquired Obligations (or Substitute Obligations) and money deposited with the Refunding Trustee pursuant to this ordinance. All Acquired Obligations (or Substitute Obligations) and the money deposited with the Refunding Trustee and any income therefrom shall be held irrevocably, invested and applied in accordance with the provisions of the Refunded Bond Ordinance, 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, 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 City Manager or Finance Director of the City, and each of them acting alone, are severally authorized and directed to execute and deliver to the Refunding Trustee a Refunding Trust Agreement substantially in the form on file with the Finance Director 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 City Manager or Finance Director of the City, and each of them acting along, are severally 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 and the Refunded Bonds are in compliance with the requirements of federal law governing the exclusion of interest on the Bonds and the Refunded Bonds from gross income for federal income tax purposes.

(f) Call for Redemption of the Refunded Bonds. The City calls for redemption on January 24, 2012, 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 Underwriter.

The proper City officials are authorized and directed to give or cause to be given such notices as required, at the times and in the manner required, pursuant to the Refunded Bond Ordinance in order to carry out the Refunding Plan.

(g) Additional City Findings with Respect to the Refunding Plan. The City Council finds and determines that the money to be deposited with the Refunding Trustee for the Refunded Bonds in accordance with this Section will discharge and satisfy the obligations of the City under the Refunded Bond Ordinance 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 16. Undertaking to Provide Continuing Disclosure. To meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds, the City makes the following written Undertaking for the benefit of holders of the Bonds:

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

(i) 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) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (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, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) Bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

(iii) 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 generally accepted accounting principles applicable to State local governmental units such as the City, as such principles may be changed from time to time, 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) outstanding general obligation bonds; (3) assessed valuation for the fiscal year; (4) regular property tax levy rate and regular property tax levy rate limit for the fiscal year; and (5) general fund revenues from other major tax sources;

(ii) Shall be provided 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, 2011; and

(iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(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 or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12. The City will give notice to the MSRB 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 Rule 15c2-12 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 the MSRB.

(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 Finance 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 Rule 15c2-12, including 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, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;

(iii) Determining whether any person other than the City is an “obligated person” within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person in accordance with Rule 15c2-12;

(iv) Selecting, engaging and compensating designated agents and consultants, including 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 17. Approval of Bond Purchase Contract; Delivery of Bonds. The Underwriter has presented 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. The City Council finds that entering into the Bond Purchase Contract is in the City’s best interest and accepts the offer contained therein and authorizes its execution by the City Manager.

The Bonds will be printed at City expense and will be delivered to the Underwriter in accordance with the Bond Purchase Contract, with the approving legal opinion of Bond Counsel of Seattle, Washington, regarding the Bonds.

Section 18. Official Statement. The City has been provided with copies of a preliminary official statement dated November 30, 2011, prepared in connection with the sale of the Bonds. For the sole purpose of the Underwriter’s compliance with paragraph (b)(1) of Rule 15c2-12, the City “deems final” that Preliminary Official Statement as of its date, except for the omission of information permitted by Rule 15c2-12 and ratifies the distribution by the Underwriter of that preliminary official statement to potential purchasers of the Bonds.

The City authorizes and approves the preparation, execution by the City Manager or Finance Director and delivery to the Underwriter of a final official statement for the Bonds, in the form of the preliminary official statement, with such modifications and amendments thereto as shall be deemed necessary or desirable by the City. The City authorizes and approves the distribution by the Underwriter of that final official statement to potential purchasers and purchasers of the Bonds.

Section 19. Supplemental Ordinances. The City Council from time to time and at any time may pass an ordinance or ordinances supplemental to this ordinance which supplemental ordinance or ordinances thereafter shall become a part of this ordinance, for any one or more of the following purposes:

(a) To add covenants and agreements that do not adversely affect the interests of the Owners of the Bonds, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Owners of the Bonds.

Section 20. General Authorization and Ratification. The City Manager, Finance Director, and other appropriate officers of the City are severally authorized and directed to take any actions and to execute documents as in their judgment may be necessary or desirable to carry out the terms of, and complete the transactions contemplated by, this ordinance and the Bond Purchase Contract (including everything necessary for the prompt delivery of the Bonds to the Underwriter and for the proper application, use and investment of the proceeds of the sale thereof), and all actions heretofore taken in furtherance thereof and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 21. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, after all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 22. 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 of the City of Kelso, Washington, at a special open public meeting thereof, this 7th day of December, 2011.

Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:

EXHIBIT A

Bond Maturity Schedule:

<u>Maturity Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Maturity Year</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
	\$	%		\$	%

Mandatory Redemption Schedule:

Term Bonds Maturing 20__

<u>Mandatory Redemption Years</u>	<u>Mandatory Redemption Amounts</u>
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*Maturity.

Term Bonds Maturing 20__

<u>Mandatory Redemption Years</u>	<u>Mandatory Redemption Amounts</u>
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*Maturity.

CERTIFICATION

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

1. The attached copy of Ordinance No. ____ (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a special meeting of the City Council of the City held at the regular meeting place thereof on December 7, 2011, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after publication in the City's official newspaper; and

2. Written notice specifying the time and place of the special meeting and noting the business to be transacted was given to all members of the City Council by mail or by personal delivery at least 24 hours prior to the special meeting, a true and complete copy of which notice is attached hereto as Appendix 1;

3. Written notice of the special meeting was given to each local radio or television station and to each newspaper of general circulation that has on file with the City a written request to be notified of special meetings, or to which such notice customarily is given;

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

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of December, 2011.

CITY OF KELSO, WASHINGTON

Brian Butterfield, City Clerk

