

## CITY OF SAMMAMISH, WASHINGTON

ORDINANCE NO. 099-02

AN ORDINANCE of the City Council of the City of Sammamish, Washington, accepting the commitment of Bank of America National Trust and Savings Association, doing business as Seafirst Bank, Seattle, Washington, to provide a revolving line of credit evidenced by a note payable from the taxes and other revenues of the City; authorizing the issuance of a note in an aggregate principal amount of not to exceed \$1,000,000 at any time outstanding for the purpose of paying expenditures of the City's General Fund and other funds pending the receipt of taxes and other revenues; fixing the form, maturity, interest rate or rates, terms and covenants of such note; creating a special fund for the payment thereof; and providing for the delivery of the note to Bank of America National Trust and Savings Association, doing business as Seafirst Bank, Seattle, Washington.

WHEREAS, the City of Sammamish, Washington (the "City"), is operating during an interim period pursuant to RCW 35.02.130, and finds that periodic collections of general ad valorem property taxes and other money for deposit in the City's General Fund and certain other City funds from time to time may not be sufficient to meet necessary City expenses as they are incurred and that it is in the best interest of the City to contract short-term debt to pay those expenses, such debt to be paid from general ad valorem taxes and other money for deposit in the City's General Fund and other borrowing funds; and

WHEREAS, RCW 35.02.130 provides that a city operating during an interim period may issue tax anticipation notes or other short-term obligations as provided in Chapter 39.50 RCW, and RCW 39.46.050 provides that a city may establish lines of credit with any qualified public depository to be drawn on in exchange for its bonds or other obligations, and Chapter 39.50 RCW further authorizes the City to incur short-term obligations in anticipation of the receipt of taxes and other revenues; and

WHEREAS, it is in the best interest of the City to make a contract for borrowing from time to time, by the issuance of a tax anticipation note in the aggregate principal amount of not to exceed \$1,000,000 outstanding at any one time, for the purpose of defraying the cost or a part of the costs and expenses incurred by the City's General Fund and certain other funds; and

WHEREAS, Bank of America National Trust and Savings Association, doing business as Seafirst Bank, Seattle, Washington has submitted to the City an offer to purchase such note dated May 17, 1999 (the "Proposal"); NOW, THEREFORE,

THE CITY COUNCIL OF THE CITY OF SAMMAMISH, WASHINGTON, DO  
ORDAIN as follows:

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

"Bank" means Bank of America National Trust and Savings Association, doing business as Seafirst Bank, Seattle, Washington.

"Business Day" means any day which is not a Saturday or Sunday or a day on which commercial banks located in Seattle, Washington, are closed for business.

"Code" means the Internal Revenue Code of 1986, as amended, and regulations promulgated thereunder.

"City" means the City of Sammamish, Washington.

"City Treasurer" means the Interim Finance Director or other officer of the City that carries out treasurer functions, or such other officer that succeeds to the treasurer functions of the City.

"Council" means the City Council of the City of Sammamish.

"Loan Draw" means an incremental draw upon the Note by the City in accordance with this ordinance.

“Note” shall mean the Tax Anticipation Note, 1999 (Revolving Line of Credit), issued pursuant to and for the purposes provided in this ordinance.

“Note Account” means the Tax Anticipation Note Account, 1999 (Revolving Line of Credit), created in the General Fund pursuant to and for the purposes provided in this ordinance.

“Note Registrar” means the City Treasurer.

“Note Purpose” means (i) the payment of claims against the General Fund during temporary cash flow deficits pending the receipt of taxes and other money to be deposited legally in that fund, (ii) the repayment of interfund loans or advances legally made from the General Fund to Other City Funds, or (iii) the payment of claims against Other City Funds during temporary cash flow deficits pending the receipt of taxes or other money to be deposited legally in those funds.

“Other City Funds” means any City fund or account supported in whole or in part by taxes and which may legally receive advances or loans from the General Fund.

“Proposal” means the Bank’s offer to purchase the Note, which offer is dated May 17, 1999.

“Reference Rate” means the rate of interest publicly announced from time to time by the Bank in San Francisco, California, as its “Reference Rate”, and set based on various factors, including the Bank’s costs and desired return, general economic conditions and other factors, and which reference rate may not necessarily be the lowest interest rate charged by the Bank. Any change in the Reference Rate shall take effect at the opening of business on the day specified in the public announcement of a change in the Reference Rate.

Section 2. Authority to Incur Indebtedness. The City is authorized by RCW 39.36.020(2) to incur non-voted indebtedness in an amount not to exceed one and one-half percent of the value of the taxable property in the City. The City has sufficient nonvoted debt capacity to incur the indebtedness authorized under the Note.

Section 3. Authorization of Note. For the purpose of carrying out the Note Purpose, the City may borrow money from time to time pursuant to this ordinance and, as evidence thereof, shall issue its Note in an aggregate principal amount not to exceed \$1,000,000 outstanding at any one time and shall deliver to the Bank a separate certificate evidencing each Loan Draw.

Section 4. Description of Note. The Note shall be designated the Tax Anticipation Note, 1999 (Revolving Line of Credit); shall be in fully registered form, as provided in Section 9 hereof; shall be repaid as to each loan draw not later than six months after the end of the fiscal year in which that Loan Draw was made, except that no Loan Draw shall mature and be due later than December 15, 2000, the maturity date of the Note.

The City may make incremental draws upon the Note ("Loan Draws") in any amount for any Note Purpose. Loan Draws shall be recorded on the Loan Draw Record attached to the Note, which Loan Draw Record shall be in substantially the form set forth in Exhibit A to this ordinance, or in lieu thereof by other suitable records acceptable to the City Treasurer. Loan Draws shall not be limited in frequency, nor subject to approval of the Bank, but shall be limited to \$1,000,000 in aggregate principal amount outstanding at any one time.

Interest on each Loan Draw shall accrue at the rate of 57% of the Reference Rate on the unpaid balance of the Loan Draw from the date of that Loan Draw or the day of the last payment in full of the interest due on that Loan Draw until the principal amount of that Loan Draw is paid. In the event that interest on the Note becomes includable in gross income for Federal income tax purposes, or if the Note is no longer a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code, the rate of interest shall be increased to a rate reasonably set by the Bank to reflect approximately the same effective yield to the Bank as the rate set in this ordinance.

Interest on any outstanding Loan Draws shall be payable upon the maturity of the Note, and accrued interest on any Loan Draw shall also be payable upon prior repayment of that Loan Draw. Interest shall be computed on the principal amount of the Loan Draw outstanding on the basis of the number of days actually elapsed in a 365/366-day year.

Both principal of and interest on each Loan Draw shall be payable in lawful money of the United States of America and shall be obligations only of the Note Account and the respective fund receiving the proceeds of the Loan Draw. Interest on and principal of Loan Draws paid prior to the maturity date of the Note shall be paid by check, draft or warrant mailed at least one Business Day prior to a Loan Draw prepayment to the registered owner at its address appearing in the Note Registrar's registration books fifteen Business Days preceding the prepayment (the "Record Date"). Outstanding principal of Loan Draws on the Note at maturity or payment of all Loan Draws shall be payable upon presentation and surrender of the Note by its registered owner at the office of the Note Registrar at maturity or earlier redemption by the City. Payments of principal and interest shall be recorded on the Payment Record attached to the Note, which Payment Record shall be in substantially the form attached hereto as Exhibit B, or in lieu thereof by other suitable records acceptable to the City Treasurer. The Note may be assigned and transferred only in whole and with the prior written consent of the City, which consent shall not be unreasonably withheld.

Loan Draws may be made from the date of the Note through December 14, 2000. The principal amount of any Loan Draw, together with accrued interest on that Loan Draw, may be prepaid in whole or in part on any Business Day without penalty.

The City Council finds that the fixing of the above interest rate index is in the best interest of the City.

Section 5. Preservation of Tax Exemption for Interest on Note. The City covenants that it will take all actions necessary to prevent interest on the Note from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Loan Draws or other funds of the City treated as proceeds of the Loan Draws at any time during the term of the Note which will cause interest on the Note to be included in gross income for federal income tax purposes.

The City also covenants that, to the extent arbitrage rebate requirements of Section 148 of the Internal Revenue Code of 1986, as amended (the "Code"), are applicable to the Note, it will take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Note, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Note from being included in gross income for federal income tax purposes. The City expects to spend each Loan Draw immediately and, therefore, expects proceeds of the Note to be exempt from arbitrage rebate under the six-month expenditure exemption. The City certifies that it has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that it is a bond issuer whose arbitrage certifications may not be relied upon.

Section 6. Small Governmental Issuer Arbitrage Rebate Exemption and Designation of Notes as "Qualified Tax-Exempt Obligations." The City finds and declares that (a) it is a duly organized and existing governmental unit of the State of Washington and has general taxing power; (b) the Note is not a "private activity bond" within the meaning of Section 141 of the United States Internal Revenue Code of 1986, as amended (the "Code"); (c) at least 95% of the net proceeds of the Note 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); (d) 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 which the City controls, which derives its authority to issue tax-exempt obligations from the City or which issues tax-exempt obligations on behalf of the City) during the calendar year in which the Note is issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Note, 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 Note is issued does not exceed \$10,000,000. The City therefore certifies that the Note is eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and designates the Note as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code.

Section 7. Payment of Note; Creation of Note Account. There is created in the Office of the City Treasurer a fund or account within the General Fund to be called the Tax Anticipation Note Account, 1999 (Revolving Line of Credit) (the "Note Account").

The Note shall be paid solely from the Note Account. The City irrevocably pledges to include in its budget and to 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 in the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the outstanding principal of and interest on the Note, and the full faith, credit and resources of the City are pledged irrevocably for the annual levy and collection of those taxes and the prompt payment of that principal and interest. The City irrevocably pledges to set aside and deposit in the Note Account from such taxes and from other money legally available therefor on or

before the dates required herein, amounts sufficient to pay principal of Loan Draws on the Note when due and to pay the amount outstanding under the Note in full on December 15, 2000.

Pending the redemption of the Note and subject to Section 5 hereof, the City may invest money deposited in the Note Account in any legal investment maturing not later than the earlier of the maturity date of the Note or repayment date of a Loan Draw, and the investment earnings shall be retained in the Note Account, applied to the reduction of the foregoing deposit requirements and expended for the purpose of that fund or, if sufficient money is on deposit in the Note Account for the redemption, both principal and interest, of the Note, such investment earnings may be transferred to the City's General Fund and expended for the purposes of such fund.

If the City fails to set aside and pay into the Note Account the amounts set forth above, the owner of the Note may bring an action against the City to compel such setting aside and payment.

Section 8. Prepayment and Redemption of Note. The City reserves the right to prepay and redeem without notice on any Business Day prior to maturity date any or all of the principal amount of the Note outstanding at par plus accrued interest to the date of redemption. On any partial prepayment, the City shall designate the outstanding Loan Draw that it intends to repay.

Upon prepayment in whole or in part, the principal amount of the Note available to be drawn by the City shall be restored in the amount of such principal prepayment.

Section 9. Registration of Note. The Note shall be issued only in registered form as to both principal and interest and be recorded on books or records maintained by the Note Registrar (the "Note Register"). The Note Register shall contain the name and mailing address of the Bank or its registered assigns to whom the Note has been transferred in accordance with its terms.

The City Treasurer shall serve as Note Registrar for the Note. 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. The Note may be assigned and transferred only in accordance with Section 4 of this ordinance, and only if endorsed in the manner provided thereon and surrendered to the Note Registrar. The transfer of the Note shall be by the Note Registrar's receiving the Note to be transferred, canceling it and issuing a new certificate in the form of the Note to the transferee after registering the name and address of the transferee on the Note Register. Such exchange or transfer shall be without cost to the registered owner or transferee.

When the Note has matured, and when the Note has been paid in full, both principal and interest, the Note shall be surrendered by the registered owner to the Note Registrar, who shall destroy the same one month after the date of receipt of such Note. Upon destruction, the Note Registrar shall furnish to the City a certificate of destruction and no further Note shall be executed or authenticated or issued in exchange or substitution therefor.

Individual certificates, evidencing each Loan Draw, shall be issued to the Bank upon each draw and, when that draw has been paid in full, shall be surrendered to the Note Registrar for destruction in the same manner as provided for the Note.

Section 10. Form of Note. The Note and Loan Draw certificates shall be printed, typed or multicopied on good bond paper or other suitable paper in a form consistent with the provisions of this ordinance and shall be signed by the Mayor and the City Treasurer, either or both of whose signature may be in facsimile.

Section 11. Acceptance of Proposal. The Bank has submitted its Proposal to extend a revolving credit facility to the City, evidenced by and to the Note, the City to furnish the printed or typewritten Note, evidences of each Loan Draw and the approving legal opinion of Foster Pepper & Shefelman PLLC, municipal bond counsel of Seattle, Washington, at the City's expense. The City

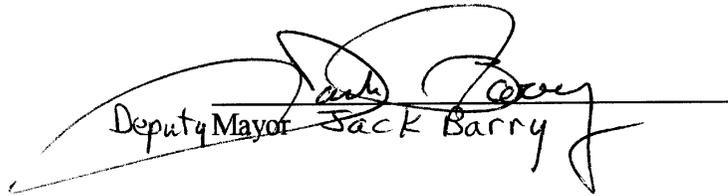
Council finds that it is in the best interest of the City to establish a revolving credit relationship with a financial institution under which the City may borrow money as described in this ordinance, and further finds that the Bank's Proposal is the best offer available to the City for the establishment of such a revolving credit relationship. Accordingly, the City accepts that proposal and its terms, subject to the provisions of this ordinance. The Note shall be delivered to the Bank and administered under the terms set forth herein, if and when issued.

Section 12. Authorization of Issuance. The Mayor, the City Manager, the City Clerk and the City Treasurer, or such persons who are duly acting in those capacities, are authorized and directed and are designated as the representatives of the City, to act on its behalf, subject to the terms of this ordinance, in issuing and delivering the Note at such time or times as they deem necessary to accomplish the Note Purpose. The appropriate City officials are authorized and directed to do all things necessary for the issuance, execution and delivery of the Note and for the proper use and application of the proceeds from the sale thereof.

Section 13. Representation Concerning the Year 2000. The City will conduct a review of City's computer applications and make inquiry of the City's key suppliers, and customers with respect to the "year 2000 problem" (that is, the risk that computer applications may not be able to properly perform date-sensitive functions after December 31, 1999). The City will request suppliers and vendors address "year 2000" requirements in proposals for equipment and services that may be vulnerable to the year 2000 problem.

Section 14. Effective Date. This ordinance shall take effect and be in force from and after its passage as provided in RCW 35.02.130. The acts of officers and employees of the City prior to the effective date and consistent with the terms of this ordinance are hereby ratified and confirmed.

PASSED by the City Council of the City of Sammamish, Washington, at a regular open public meeting thereof, this 26<sup>th</sup> day of May, 1999.

  
Deputy Mayor Jack Barry

ATTEST:

  
Interim City Clerk

APPROVED AS TO FORM:

  
Legal Consultant  
Interim City Attorney

EXHIBIT A

LOAN DRAW RECORD

	<u>Draw Date</u>	<u>Loan Draw Amount</u>	<u>Loan Interest Rate</u>	<u>Principal Payment Date</u>	<u>Borrowing Fund</u>
Draw No. 1	_____	_____	_____	_____	_____
Draw No. 2	_____	_____	_____	_____	_____
Draw No. 3	_____	_____	_____	_____	_____
Draw No. 4	_____	_____	_____	_____	_____
Draw No. 5	_____	_____	_____	_____	_____

EXHIBIT B  
LOAN PAYMENT RECORD

DRAW NO. 1

<u>Authorized Payment Dates</u>	<u>Principal Payments</u>	<u>Principal Balance Due</u>	<u>Interest Payments</u>	<u>Date Paid</u>	<u>Signature of Representative of Note Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

DRAW NO. 2

<u>Authorized Payment Dates</u>	<u>Principal Payments</u>	<u>Principal Balance Due</u>	<u>Interest Payments</u>	<u>Date Paid</u>	<u>Signature of Representative of Note Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____

DRAW NO. 3

<u>Authorized Payment Dates</u>	<u>Principal Payments</u>	<u>Principal Balance Due</u>	<u>Interest Payments</u>	<u>Date Paid</u>	<u>Signature of Representative of Note Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

LOAN PAYMENT RECORD

DRAW NO. 4

<u>Authorized Payment Dates</u>	<u>Principal Payments</u>	<u>Principal Balance Due</u>	<u>Interest Payments</u>	<u>Date Paid</u>	<u>Signature of Representative of Note Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

DRAW NO. 5

<u>Authorized Payment Dates</u>	<u>Principal Payments</u>	<u>Principal Balance Due</u>	<u>Interest Payments</u>	<u>Date Paid</u>	<u>Signature of Representative of Note Owner</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
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_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

I, ROBERT W. NOACK, Interim Finance Director of the City of Sammamish Washington, certify that the attached copy of Ordinance No. 099-02 is a true and complete copy of the original ordinance adopted on the 26<sup>th</sup> day of May, 1999 as that ordinance appears on the Minute Book of the City.

DATED this 26<sup>th</sup> day of May, 1999.

  
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ROBERT W. NOACK  
Interim Finance Director