

CITY OF BELLEVUE, WASHINGTON
LIMITED TAX GENERAL OBLIGATION REFUNDING BOND, 2021

ORDINANCE NO. 6595

AN ORDINANCE of the City of Bellevue, Washington, 1) providing for the issuance of a limited tax general obligation refunding bond of the City in a maximum principal amount of \$110,000,000, to evidence the City's obligations under a TIFIA loan agreement with the United States Department of Transportation; 2) authorizing execution of the loan agreement, the delivery of the bond to the United States Department of Transportation, and the payment of costs of issuance of the bond; and 3) delegating the authority to approve the terms of the loan agreement and the final form and terms of the bond.

Passed: _____, 2021

Prepared By

PACIFICA LAW GROUP LLP
1191 Second Avenue, Suite 2000
Seattle, Washington 98101-2945

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* This Table of Contents is provided for reference only and does not constitute a part of the Ordinance for which it is provided.

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WHEREAS, the City of Bellevue, Washington (the "City"), financed a portion of the costs of designing, acquiring right of way and easements, and constructing transportation improvements and related facilities in connection with the BelRed Street Network (the "Project") with the proceeds of a federal Transportation Infrastructure Finance and Innovation Act loan (the "2017 Loan") from the United States Department of Transportation (the "TIFIA Lender") in a principal amount up to \$99,600,000; and

WHEREAS, the TIFIA Loan Agreement for Bellevue BelRed Street Network Project (TIFIA-2017-10I0A) dated as of June 9, 2017 (the "2017 Loan Agreement") set forth the terms of the 2017 Loan, and issuance, execution and delivery by the City of its Limited Tax General Obligation Bond, 2017 (the "2017 Bond") to evidence the 2017 Loan; and

WHEREAS, the City is authorized by chapters 35A.40, 39.36, 39.46, 39.53, and 39.69 RCW to borrow money and issue general obligation bonds to refinance costs of the Project and refund the 2017 Bond; and

WHEREAS, pursuant to Section 30 of the 2017 Loan Agreement, the 2017 Loan Agreement may be amended or modified with the written consent of each of the parties thereto; and

WHEREAS, it is anticipated that the TIFIA Lender will approve the City's application to refinance the 2017 Loan, and it is anticipated that the TIFIA Lender will be prepared to refinance the 2017 Loan upon execution of a loan agreement (the "2021 Loan Agreement") or upon execution of a first amendment (the "First Amendment") to the 2017 Loan Agreement, and issuance, execution and delivery by the City of its Limited Tax General Obligation Refunding Bond, 2021, to evidence the City's obligations under the 2021 Loan Agreement or First Amendment; and

WHEREAS, the City Council wishes to delegate authority to the City Manager and/or the Finance Director, or the authorized designee thereof (each, a "Designated Representative"), for a limited time, to approve the interest rate, maturity date, redemption or prepayment rights, form and other terms of the 2021 Bond and to approve the terms of the 2021 Loan Agreement and/or First Amendment within the parameters set forth in this Ordinance; and

WHEREAS, the 2021 Bond shall be delivered to the TIFIA Lender to refund the 2017 Bond;

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

Section 1. Definitions and Interpretation of Terms. Capitalized terms used but not defined in this Ordinance shall have the meanings assigned to such terms in the 2021 Loan Agreement and/or the 2017 Loan Agreement as amended by the First

Amendment. In addition, as used in this Ordinance, the following words shall have the following meanings, unless a different meaning clearly appears from the context:

Act means the Transportation Infrastructure Finance and Innovation Act of 1998 (“TIFIA”), § 1501 et seq. of Public Law 105-178 (as amended by Public Law 105-206, Public Law 109-59, Public Law 112-141, and Public Law 114-94) (the “Act”), codified as 23 U.S.C. §§ 601-609.

Bond Register means the registration books showing the name, address and tax identification number of the Registered Owner.

Bond Registrar means, initially, the Finance Director, for the purposes of registering and authenticating the 2021 Bond, effecting transfer of ownership of the 2021 Bond and paying interest on and principal of the 2021 Bond.

Business Day means any day other than a Saturday, a Sunday or a day on which offices of the United States of America and its departments and agencies or the State are authorized to be closed or on which commercial banks are authorized or required by law, regulation or executive order to be closed in New York, New York, or Bellevue, Washington.

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

City Council means the legislative authority of the City as the same shall be duly and regularly constituted from time to time.

City Manager means the City Manager of the City and any successor to the functions of such office.

Debt Service Fund means the Interest and Debt Redemption Regular Levy Fund of the City established pursuant to Section 8 hereof.

Default Rate means an interest rate equal to the sum of (a) the TIFIA Interest Rate plus (b) 200 basis points, or such lesser rate as may be set forth in the TIFIA Loan Agreement.

Designated Representative means the City Manager and/or the Finance Director, or the authorized designee of either of them. The signature of one Designated Representative shall be sufficient to bind the City.

Final Maturity Date means the earlier of December 1, 2056 and the date that is thirty-five (35) years following the Substantial Completion Date.

Finance Director means the Finance Director of the City and any successor to the functions of such office.

First Amendment means the First Amendment to the 2017 Loan Agreement by and between the City and the TIFIA Lender, authorized to be executed and delivered by the City pursuant to this Ordinance and approved by the Designated Representative.

Outstanding TIFIA Loan Balance means the aggregate principal amount drawn by the City and then outstanding (including capitalized interest) with respect to the TIFIA Loan, as determined in accordance with the TIFIA Loan Agreement.

Payment Default has the meaning set forth in the TIFIA Loan Agreement.

Project means the roadway improvement project located within the City, commonly referred to as the BelRed Street Network project consisting of the aggregate of the Segments as defined in the TIFIA Loan Agreement, including each TIFIA

Segment as defined in the TIFIA Loan Agreement, as more fully described in the TIFIA Loan Agreement.

Related Documents means the TIFIA Loan Documents and the Principal Project Contracts as such terms are defined in the TIFIA Loan Agreement.

Registered Owner means the person named as the registered owner of the 2021 Bond on the Bond Register, initially the TIFIA Lender.

Semi-Annual Payment Date means each June 1 and December 1; provided that if any such date is not a Business Day, payment shall be made on the next Business Day following such date.

State means the State of Washington.

TIFIA Interest Rate equals the fixed interest rate per annum as approved pursuant to Section 10 of this Ordinance.

TIFIA Lender means the United States Department of Transportation, an agency of the United States of America, acting by and through the Executive Director of the Build America Bureau.

TIFIA Loan means the loan made by the TIFIA Lender to the City pursuant to the TIFIA Loan Agreement in accordance with the Act.

TIFIA Loan Agreement means the 2021 Loan Agreement and/or the 2017 Loan Agreement as amended by the First Amendment.

2017 Bond means the City of Bellevue, Washington, Limited Tax General Obligation Bond, 2017 issued to evidence the City's obligations under the 2017 Loan Agreement pursuant to Ordinance No. 6352 passed on April 17, 2017.

2017 Loan Agreement means the TIFIA loan agreement for Bellevue BelRed

Street Network Project (TIFIA-2017-10I0A), by and between the TIFIA Lender and the City, dated as of June 9, 2017.

2021 Bond means the City of Bellevue, Washington, Limited Tax General Obligation Refunding Bond, [2021/2022] issued to evidence the City's obligations under the TIFIA Loan Agreement.

2021 Loan Agreement means that certain TIFIA Loan Agreement by and between the City and the TIFIA Lender, authorized to be executed and delivered by the City pursuant to this Ordinance and approved by the Designated Representative.

Interpretation. In this Ordinance, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this Ordinance, refer to this Ordinance as a whole and not to any particular section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this Ordinance;

(b) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(c) Any headings preceding the text of the several sections of this Ordinance, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this Ordinance, nor shall they affect its meaning, construction or effect; and

(d) All references herein to "sections" and other subdivisions or clauses are to the corresponding sections, subdivisions or clauses hereof.

Section 2. Findings. The City Council hereby finds that it is in the public

interest for the City to issue the 2021 Bond to refund the 2017 Bond and to enter into the 2021 Loan Agreement or First Amendment to refinance a portion of the costs of the Project.

Section 3. Description of the 2021 Bond. The City is hereby authorized to issue the 2021 Bond in a maximum principal amount of \$110,000,000 to refund the 2017 Bond and pay costs of issuance. The 2021 Bond shall be a general obligation of the City and shall be designated the “City of Bellevue, Washington, Limited Tax General Obligation Refunding Bond, 2021,” however if the dated date of delivery of the 2021 Bond falls within calendar year 2022, the City shall designate the 2021 Bond the “City of Bellevue, Washington, Limited Tax General Obligation Refunding Bond, 2022”; shall be dated as of its date of delivery to the TIFIA Lender; shall mature on the Final Maturity Date; shall be in one denomination; shall bear interest on the Outstanding TIFIA Loan Balance at the TIFIA Interest Rate, computed on the Outstanding TIFIA Loan Balance (as well as on any past due interest) from time-to-time on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed, compounded semi-annually (provided, however, in the event of a Payment Default, the City shall pay interest on any overdue amount from (and including) its due date to (but excluding) the date of actual payment at the Default Rate); and shall accrue interest as provided in the TIFIA Loan Agreement and be payable, on each Semi-Annual Payment Date, and on each other date on which payment thereof is required to be made under the TIFIA Loan Agreement, in such amounts and at such times as set forth in the TIFIA Loan Agreement.

Section 4. Registration, Transfer and Payment of the 2021 Bond.

(a) *Registrar.* The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the 2021 Bond upon the transfer or exchange thereof in accordance with the provisions of this Ordinance.

(b) *Registered Ownership.* The City and the Bond Registrar may deem and treat the Registered Owner as the absolute owner of the 2021 Bond for all purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary.

(c) *Transfer or Exchange of Registered Ownership.* The 2021 Bond shall not be transferred, except as provided in the TIFIA Loan Agreement or unless (i) the corporate name of the Registered Owner is changed and the transfer is necessary to effect such change or (ii) the transferee is a successor in interest of the Registered Owner by operation of law.

(d) *Place and Medium of Payment.* Payments under the TIFIA Loan Agreement, including principal of and interest on the 2021 Bond, shall be payable to the Registered Owner in funds available on or before the due date and in any lawful coin or currency of the United States of America that at the date of payment is legal tender for the payment of public and private debts, by wire transfer or other means mutually acceptable to the Registered Owner and the City.

Section 5. Redemption and Prepayment. The 2021 Bond shall be subject to mandatory and optional redemption or prepayment, in whole or in part, on the dates and under the terms set forth in the TIFIA Loan Agreement. Notice of redemption or prepayment of the 2021 Bond shall be provided by the City to the Registered Owner in accordance with the TIFIA Loan Agreement.

Section 6. Form of the 2021 Bond. The form of the 2021 Bond shall as required by the TIFIA Loan Agreement and as approved by the Designated Representative; provided that the security for the 2021 Bond shall be consistent with Section 8 and the terms of the 2021 Bond shall be within the parameters set forth in Section 10.

Section 7. Execution of the 2021 Bond. The 2021 Bond shall be executed on behalf of the City with the manual or facsimile signature of the Mayor and attested by the manual or facsimile signature of the City Clerk and the seal of the City shall be impressed, imprinted or otherwise reproduced thereon.

Only a 2021 Bond that bears a Certificate of Authentication manually executed by the Bond 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 such 2021 Bond has been duly executed, authenticated and delivered and is entitled to the benefits of this Ordinance.

In case either of the officers of the City who shall have executed the 2021 Bond shall cease to be such officer or officers of the City before the 2021 Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the City, such Bond 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 2021 Bond may also be signed and attested on behalf of the City by such persons as at the actual date of execution of such Bond shall be the proper officers of the City although at the original date of such Bond any such person shall not have been such officer.

Section 8. Debt Service Fund and Provision for Tax Levy Payments. The Debt Service Fund is hereby established by the City and shall be drawn upon for the purpose of paying the principal of and interest on the 2021 Bond and all other amounts due under the TIFIA Loan Agreement.

The City hereby irrevocably covenants and agrees for as long as the 2021 Bond is outstanding and unpaid that annually it will include in its budget and levy an ad valorem tax, within and as a part of the tax levy permitted to cities without a vote of the people, upon all the property within the City subject to taxation in an amount which will be sufficient, together with other lawfully available funds, to pay the principal of and interest on the 2021 Bond and all amounts due under the TIFIA Loan Agreement as the same shall come due. All of such taxes and any of such other money so collected shall be paid into the Debt Service Fund. Money in the Debt Service Fund shall be held uninvested or shall be invested in the State's Local Government Investment Pool. Any interest or profit from the investment of such money shall be deposited in the Debt Service Fund.

The City hereby irrevocably pledges that a sufficient portion of each annual levy to be levied and collected by the City prior to the full payment of the principal of and interest on the 2021 Bond and all amounts due under the TIFIA Loan Agreement will be and is hereby irrevocably set aside, pledged and appropriated for the payment of the principal of and interest on the 2021 Bond and all amounts due under the TIFIA Loan Agreement as the same shall come due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of said taxes and for the

prompt payment of the principal of and interest on the 2021 Bond and all amounts due under the TIFIA Loan Agreement as the same shall come due.

Section 9. Defeasance. The 2021 Bond shall not be subject to defeasance except as may otherwise be provided in the TIFIA Loan Agreement.

Section 10. Bond Parameters.

(a) The City Council has determined that it would be in the best interest of the City to delegate to the Designated Representative for a limited time the authority to approve the form of and the final terms of the 2021 Bond and to approve the terms of the 2021 Loan Agreement and/or First Amendment and the TIFIA Interest Rate, Final Maturity Date, and redemption or prepayment terms of the 2021 Bond, subject to the following parameters, and such authority is hereby delegated:

- (1) the maximum principal amount of the 2021 Bond does not exceed \$110,000,000;
- (2) the Final Maturity Date for the 2021 Bond is no later than December 1, 2056;
- (3) the 2021 Bond is delivered at a price of par; and
- (4) the TIFIA Interest Rate for the 2021 Bond is at least 0.40% lower than the TIFIA interest rate for the 2017 Bond.

Upon the Designated Representative's approval of the form of and final terms of the 2021 Bond and approval of the terms of the 2021 Loan Agreement and/or First Amendment pursuant to the delegated authority under this subsection (a), the Designated Representative is authorized and directed to execute and deliver the 2021 Loan Agreement and/or First Amendment and to deliver the 2021 Bond.

(b) *Report to Council; Expiration of Authority.* Following the execution and delivery of the 2021 Bond and the 2021 Loan Agreement and/or First Amendment, the Designated Representative shall provide a report to the City Council, describing the final terms of the 2021 Bond and the 2021 Loan Agreement and/or First Amendment approved pursuant to the authority delegated in this section.

The authority granted to the Designated Representative by this Section shall expire one year after the effective date of this Ordinance. If the 2021 Bond has not been issued (e.g. executed and delivered) within one year after the effective date of this Ordinance, the authorization for the issuance of the 2021 Bond shall be rescinded, and the 2021 Bond shall not be issued unless such 2021 Bond shall have been re-authorized by ordinance of the City Council. The ordinance re-authorizing the issuance and sale of such 2021 Bond may be in the form of a new ordinance repealing this Ordinance in whole or in part or may be in the form of an amendatory ordinance establishing terms and conditions for the authority delegated under this Section.

(c) *Delivery of 2021 Bond; Documentation.* Upon the passage and approval of this Ordinance, the proper officials of the City, including the Designated Representative pursuant to the delegation under subsection (a), are authorized and directed to undertake all action necessary for the prompt approval, execution and delivery of the 2021 Bond and the 2021 Loan Agreement and/or First Amendment to the TIFIA Lender and further to execute all Related Documents, closing certificates and other related documents required to effect the closing and delivery of the 2021 Bond and to provide for the refunding of the 2017 Bond and payment of costs of issuance of

the 2021 Bond, including without limitation engaging escrow agents, entering into escrow agreements and establishing accounts to effect such refunding.

Section 11. Lost or Destroyed 2021 Bond. If the 2021 Bond is lost, stolen or destroyed, the Bond Registrar may authenticate and deliver a new 2021 Bond of like amount, maturity and tenor to the Registered Owner upon the owner, if other than the TIFIA Lender or any other government agency or entity, paying the expenses and charges of the Bond Registrar and the City in connection with preparation and authentication of the replacement 2021 Bond, and upon the Registered Owner filing with the Bond Registrar and the City evidence satisfactory to both that such 2021 Bond was actually lost, stolen or destroyed and of the Registered Owner's ownership, and upon the Registered Owner, if other than the TIFIA Lender or any other government agency or entity, furnishing the City and the Bond Registrar with indemnity satisfactory to both.

Section 12. General Authorization; Ratification of Prior Acts. The City Manager and Finance Director, and other appropriate officers of the City are authorized to provide notices, 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 including without limitation the execution and delivery of each related document to which the City is a party and the performance of its respective obligations thereunder.

Section 13. Severability. If any provision in this Ordinance is declared by any court of competent jurisdiction to be contrary to law, then such provision shall be null

and void and shall be deemed separable from the remaining provisions of this Ordinance and shall in no way affect the validity of the other provisions of this Ordinance or of the 2021 Bond.

Section 14. Effective Date. This Ordinance shall become effective five days after its passage and publication, as required by law.

PASSED THIS ___ DAY OF _____, 2021, by the City Council of the City of Bellevue, and signed in approval therewith this ___ day of _____, 2021.

CITY OF BELLEVUE

Lynne Robinson, Mayor

APPROVED AS TO FORM:
Kathryn L. Gerla, City Attorney

By: _____
Nicholas Melissinos, Deputy City Attorney

ATTEST:

Charmaine Arredondo, City Clerk

PUBLISHED: _____

CERTIFICATE

I, the undersigned, Clerk of the City of Bellevue, Washington (herein called the "City") and keeper of the records of the City Council of the City (herein called the "City Council"), DO HEREBY CERTIFY:

1. That the attached ordinance is a true and correct copy of Ordinance No. _____ of the City (herein called the "Ordinance"), as finally passed at a regular meeting of the City Council held on the ____ day of _____, 2021, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, including but not limited to Washington State Governor Inslee's emergency proclamation No. 20-28 issued on March 24, 2020, as amended and supplemented, temporarily suspending portions of the Open Public Meetings Act (chapter 42.30 RCW), and to the extent required by law, due and proper notice of such meeting was given; that a quorum of the City Council was present throughout the meeting and a legally sufficient number of members of the City Council voted in the proper manner for the passage of said ordinance; that all other requirements and proceedings incident to the proper adoption or passage of said ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City this _____ day of _____, 2021.

Charmaine Arredondo, City Clerk