

CITY OF LYNDEN, WASHINGTON

LIMITED TAX GENERAL OBLIGATION BOND, 2023

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ORDINANCE NO. 24-1686

AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF SHORT TERM NOTES OF THE CITY IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$3,000,000 FOR THE PURPOSE OF FINANCING CAPITAL IMPROVEMENTS TO CITY PROPERTY AND FACILITIES; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF SAID NOTES; PROVIDING THE METHOD OF REPAYMENT OR REFINANCING FOR THE NOTES AT MATURITY; AND APPROVING THE SALE OF SUCH NOTES.

APPROVED ON MAY 9, 2024

PREPARED BY:

K&L GATES LLP

CITY OF LYNDEN, WASHINGTON  
ORDINANCE NO. 24-1686

TABLE OF CONTENTS\*

	Page
Section 1. Definitions.....	2
Section 2. Authorization of the Projects and the Bonds.....	5
Section 3. Authorization of Notes and Note Details .....	6
Section 4. Registration .....	7
Section 5. Form of Notes .....	8
Section 6. Execution of Notes .....	14
Section 7. Tax Covenants.....	15
Section 8. Note Funds.....	16
Section 9. Sale of Notes; Additional Commitments .....	16
Section 10. Lost, Stolen or Destroyed Notes.....	17
Section 11. Undertaking to Provide Ongoing Disclosure.....	17
Section 12. Ordinance and Laws a Contract with the Bank .....	17
Section 13. Ratification; General Authorization.....	17
Section 14. Severability.....	17
Section 15. Effective Date.....	17

\* This Table of Contents and the cover page are not a part of this ordinance; they are included for convenience of the reader only.

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**WHEREAS**, the City Council of the City of Lynden, Washington (the “City”) deems it necessary and in the best interest of the citizens of the City to finance various capital improvements to City property and facilities (hereinafter defined as the “Projects”); and

**WHEREAS**, the City has received and expects to receive in the future additional commitments for grant funding as well as Public Works trust fund loans and other revolving fund loans from state agencies from time to time in order to assist in funding Projects; and

**WHEREAS**, the City is authorized by RCW Ch. 35.92 to issue obligations payable from the revenues of its water/sewer utility; and

**WHEREAS**, the City is authorized to issue general obligation bonds, pursuant to authority granted under Title 35, RCW ch 39.36 and ch. 39.46; and

**WHEREAS**, the City is authorized by RCW Ch. 39.50 to issue short term obligations in anticipation of the issuance of long term revenue and general obligations and the receipt of grants and other public sector loans; and

**WHEREAS**, Peoples Bank (the “Bank”) has offered to purchase the Notes authorized herein under the terms and conditions set forth in their term sheet dated March 4, 2024 and this ordinance and this City Council wishes to accept the offer of the Bank

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, DOES ORDAIN, as follows:**

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

**Bank** means Peoples Bank, Lynden, Washington.

**Code** means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

**City** means the City of Lynden, Washington, a political subdivision duly organized and existing under and by virtue of the laws of the State of Washington.

**Closing Date** means the date of initial issuance and delivery of the Notes to the Bank.

**Council** means the City Council, as the general legislative body of the City.

**Draw** or **Draws** means incremental draws on the Notes as requested by the City.

**Interest Rate** means, with respect to outstanding Draws under each Note, a fixed rate of 5.75% for the date commencing with the Closing Date until the first anniversary of the Closing Date and thereafter for the second consecutive year equal to the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% as of the first anniversary date and thereafter as of the second and third year anniversary date a rate of the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% in each case with a floor of 4.50% and a ceiling of 7.50%; provided, further, in the event that the interest on a Note is no longer exempt from regular federal income taxation, the Interest Rate on that Note shall be increased by 2.0%, effective as of the date of loss of tax-exempt status..

**Loan Draw Record** means the administrative records kept by the Bank to record the date and dollar amounts of the draws on the Notes and the loan repayments made by the City.

**LGO Bonds** means the limited tax general obligation bonds authorized to be issued by the City in Section 2 of this ordinance.

**LGO Capacity** means the remaining aggregate dollar amount of general obligation bond debt capacity of the City (authority to incur debt without a vote of the electors). Prior to making a first draw on Note-2024B, the will calculate and inform the Bank of its LGO Capacity determined to be legally available and pledged to the repayment of the Note-2024B. The Treasurer may deliver a written notice to the Bank of a change in the LGO Capacity; and the Bank is entitled to rely upon the City’s representation as the City’s LGO Capacity until otherwise advised in writing of a change therein.

**Maturity Date** means the date that is three years from the Closing Date.

**Note-2024A** means the City of Lynden, Washington, Revenue Bond Anticipation Note, 2024A (Revolving), issued pursuant to this ordinance.

**Note-2024B** means the City of Lynden, Washington, Limited General Obligation Bond and Grant Anticipation Note, 2024B (Revolving), issued pursuant to this ordinance.

**Note Fund-2024A** means the City of Lynden Note Redemption Fund, A (Utility Based), created in the office of the Treasurer of the City pursuant to Section 8 of this ordinance.

**Note Fund-2024B** means the City of Lynden Note Redemption Fund, B (LTGO Based), created in the office of the Treasurer of the City pursuant to Section 8 of this ordinance.

**Note Register** means the books or records maintained by the Note Registrar containing the name and mailing address of the owner of the Notes or nominee of such owner and the principal amount outstanding.

**Note Registrar** means the Treasurer.

**Notes** means the Note-2024A and the Note-2024B.

**Private Person** means any natural person engaged in a trade or business or any trust, estate, partnership, association, company or corporation.

**Private Person Use** means the use of property in a trade or business by a Private Person if such use is other than as a member of the general public. Private Person Use includes ownership of the property by the Private Person as well as other arrangements that transfer to the Private Person the actual or beneficial use of the property (such as a lease, management or incentive payment contract or other special arrangement) in such a manner as to set the Private Person apart from the general public. Use of property as a member of the general public includes attendance by the Private Person at municipal meetings or business rental of property to the Private Person on a day-to-day basis if the rental paid by such Private Person is the same as the rental paid by any Private Person who desires to rent the property. Use of property by nonprofit community groups or community recreational groups is not treated as Private Person Use if such use is incidental to the governmental uses of property, the property is made available for such use by all such community groups on an equal basis and such community groups are charged only a *de minimis* fee to cover custodial expenses.

**Revenue Bonds** means bonds issued by the City that are payable solely from the net revenues of the City's water/sewer utility.

**Rule** means the SEC's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**SEC** means the United States Securities and Exchange Commission.

**State Loans and Grants** means the loans from State agencies and grants from State agencies that may support, as provided in accordance with the terms thereof to support utility projects (revenue based) and general government projects (general obligation based).

**Treasurer** means the Treasurer of the City, or any successor to the functions of such Treasurer.

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 article, 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 of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) 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;

(d) Any headings preceding the text of the several articles and 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

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Authorization of Projects and the Bonds.

(a) *Improvements.* The City is and will continue to be making capital improvements to various City properties and facilities (the “Projects”). The Projects are being undertaken in conformance with the City’s comprehensive plans. Projects ultimately will be funded from State Loans and Grants, LGO Bonds or Revenue Bonds.

(b) *Revenue Bonds.* For the purpose of providing permanent financing for a portion of the Projects, the City may issue long term bonds payable solely from the net revenue of the City’s water/sewer utility (“Revenue Bonds”). Revenue Bonds may also include loans from State agencies if those loans are payable solely from the net revenues of the City’s water/sewer utility. Revenue Bonds will be issued in amounts and at times as shall be required to pay, and redeem, together with other legally available funds, the Note-2024A. The final terms and conditions of issuance of the Revenue Bonds shall be as set forth by ordinance of the Council.

(c) *LGO Bonds.* For the purpose of providing permanent financing for a portion of the Projects, the City may receive Grants and Loans also may issue and deliver its limited tax general obligation bonds or other evidences of general obligation indebtedness (the “LGO Bonds”) in amounts and at times as shall be required to pay, and redeem,

together with other legally available funds, the Note-2024B. The final terms and conditions of issuance of the LGO Bonds shall be as set forth by ordinance of the Council.

Section 3. Authorization of Notes and Note Details.

(a) *Authorization of Note-2024A.* In order to provide short term funding for Projects pending the issuance of Revenue Bonds, the City hereby authorizes the issuance and sale of a revenue bond and grant anticipation note in the aggregate principal amount of not to exceed \$3,000,000 (the "Note-2024A"); subject, however, to the further limitation that the aggregate principal amount outstanding of the Note-2024A and the Note-2024B (hereinafter authorized) may not at any time exceed the sum of \$3,000,000.

(b) *Authorization of Note-2024B.* In order to provide short term funding for Projects pending the issuance and delivery of LGO Bonds, the City hereby authorizes the issuance and sale of a limited general obligation bond and grant anticipation note in the aggregate principal amount of not to exceed \$3,000,000 (the "Note-2024B"); subject, however, to the further limitation that the Note-2024A and the Note 2024-B may not at any time exceed the sum of \$3,000,000.

(c) *Terms of the Note-2024A.* The Note-2024A shall be designated as the "City of Lynden, Washington Revenue Bond Anticipation Note, 2024A (Revolving)," shall be dated as of the Closing Date, shall be issued as a single instrument, fully registered as to both principal and interest, shall be in the denomination of not to exceed \$3,000,000; subject, however, to the further limitation that the aggregate principal amount outstanding of the Note-2024A and the Note-2024B (hereinafter authorized) may not at any time exceed the sum of \$3,000,000, shall be numbered N-1A and shall bear interest on outstanding principal at the Interest Rate (computed on the basis of a 365/366-day year for actual number of days elapsed). The outstanding principal balance and all unpaid and accrued interest shall be payable in full on the Maturity Date.

(d) *Terms of the Note-2024B.* The Note-2024B shall be designated as the "City of Lynden, Washington Limited General Obligation Bond and Grant Anticipation Note, 2024B (Revolving)," shall be dated as of the Closing Date, shall be issued as a single instrument, fully registered as to both principal and interest, shall be in the denomination of not to exceed \$3,000,000; subject, however, to the further limitations that the aggregate principal amount outstanding of the Note-2024A and the Note-2024B may not at any time exceed the sum of \$3,000,000 and that the aggregate principal amount outstanding of the Note-2024B may not exceed LGO Capacity as of the date of any Draw made thereunder, shall be numbered N-1B and shall bear interest on outstanding principal at the Interest Rate (computed on the basis of a 365/366-day year for actual number of days elapsed). The outstanding principal balance and all unpaid and accrued interest shall be payable in full on the Maturity Date.

(e) *Draws.* The Notes are intended to be revolving obligations; however, the principal amount outstanding under the Notes may never exceed \$3,000,000, and, provided, further, the aggregate principal amount of any Draw made under the Note-

2024B (together with all other principal amounts then outstanding under the Note-2024B) may never exceed LGO Capacity as of the date of each Draw. The available principal of the Notes shall be disbursed as borrowings and re-borrowings from time to time by the Bank upon request from the City (each such disbursement herein referred to as a “Draw”). Draws shall be recorded on the Loan Draw Record attached to the respective Note, or in such other form as the City and the Bank may agree. Interest on each Draw shall accrue from the date of that Draw and shall be computed on the basis as described above on the principal amount of the Draw outstanding for the actual number of days the principal amount of the Draw is outstanding. The City hereby covenants that it will never request a Draw under the Note-2024B if the amount of that Draw, together with the principal balance then outstanding would exceed LGO Capacity. The City will confirm its LGO Capacity prior to its first LGO drawing on Note-2024B, and the Bank may rely upon that representation until the City delivers written notice of a change in LGO Capacity.

The proceeds of any Draw shall be deposited into a fund as designated by the Treasurer and shall be expended solely to pay the costs of the Projects, and the costs of issuing and selling the Notes, as authorized herein.

(d) *Prepayment of the Notes.* The Notes may be prepaid by the City at its option at any time in whole or in part, without penalty.

#### Section 4. Registration.

(a) *Appointment of Note Registrar.* The City hereby appoints the Treasurer to act as Note Registrar. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Notes in accordance with the provisions of the Notes and this ordinance and to carry out the Note Registrar’s powers and duties under this ordinance.

(b) *Note Register.* The Notes shall be in registered form as to both principal and interest.

(c) *Registered Ownership.* The City may deem and treat the Bank as the absolute owner thereof for all purposes, and the City shall not be affected by any notice to the contrary. Payment of the Notes shall be made only as described in Sections 3 and 8 hereof. All such payments made as described in Sections 3 and 8 shall be valid and shall satisfy and discharge the liability of the City upon such Notes to the extent of the amount or amounts so paid. The Notes are not transferable.



Section 5. Form of Notes.

(a) *Form of Note-2024A.* The Note-2024A shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. N-1A

\$3,000,000  
(or as much thereof as is  
shown on the attached  
Loan Draw Record)

STATE OF WASHINGTON

CITY OF LYNDEN  
REVENUE BOND ANTICIPATION NOTE, 2024A (REVOLVING)

Registered Owner: Peoples Bank  
P.O. Box 233  
Lynden, WA 98264

Interest Rate: As described below

Maturity Date: \_\_\_\_\_, 2027

EIN Number: 91-600125

Principal Amount: THREE MILLION AND NO/100 DOLLARS (or as much thereof as is shown on the attached Loan Draw Record)

The City of Lynden, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (herein called the "City") hereby acknowledges itself to owe and for value received, but solely from the sources hereinafter identified, promises to pay to the Registered Owner identified above, or registered assigns, an amount equal to the total outstanding incremental draws (the "Draws") made in accordance with this note and Ordinance No. 24-1686 of the City, as the same may be amended in accordance with its terms (the "Note Ordinance"). Capitalized terms used in this note shall have the meanings given such terms in the Note Ordinance.

Draws made upon this note shall bear interest at a fixed interest equal to 5.75% for the date commencing with the date of this note until the first anniversary of that date and thereafter for the second consecutive year equal to the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% as of the first anniversary date and thereafter as of the second and third year anniversary date a rate of the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% in each case with a floor of 4.50% and a ceiling of 7.50%; provided, further, in the event that the interest on this note is no longer exempt from regular federal income taxation, the Interest Rate on this note shall be increased by 2.0%, effective as of the date of loss of tax-exempt status. (the "Interest Rate"). Interest shall

be computed on the basis of a 365/366-day year for actual number of days elapsed) and shall accrue from the date of each Draw on the principal amount of such Draw outstanding for the actual number of days the principal amount of such Draw is outstanding. All outstanding and unpaid principal and interest due at the maturity of this note on the Maturity Date.

The City may make Draws upon this note at any time pursuant to the Note Ordinance. Draws shall be recorded on the Loan Draw Record attached to this note, or in such other form as the City and the Bank may agree. This is a revolving note, and the City may borrow and re-borrow from time hereunder; provided that the aggregate principal amount outstanding may not exceed \$3,000,000 at any time subject, however, to the further limitation that the aggregate principal amount outstanding of this note and the Note-2024B (hereinafter defined) may not at any time exceed the sum of \$3,000,000. Simultaneously herewith, the City is issuing its Limited General Obligation Bond and Grant Anticipation Note, 2024B (Revolving), pursuant to the Note Ordinance, subject to the limitations described herein and therein.

Both principal of and interest on this note are payable in lawful money of the United States of America. The final payment of principal and interest shall be paid only upon presentation and surrender of this note to the Treasurer of the City, as "Note Registrar".

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

This note is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and ordinances of the City, including the Note Ordinance. This note is issued pursuant to the Note Ordinance for the purpose of providing the financing for certain capital improvements to property and facilities within the City.

This note is a special obligation of the City and is payable solely from a special fund of the City, designated as the City of Lynden Note Redemption Fund, A (Utility Based) (the "Note Fund"), into which the City has pledged to deposit proceeds of the Revenue Bonds in amounts sufficient to pay the principal of and interest on this note when due.

**THIS NOTE IS NOT TRANSFERABLE.**

This note is not a "private activity bond" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). This note is a "qualified tax-exempt obligation" under Section 265(b) of the Code for investment by financial institutions.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this note have happened, been done and

performed and that the issuance of this note does not violate any constitutional, statutory or other limitation upon the amount of indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Lynden, Washington has caused this note to be signed with the manual or facsimile signature of the Mayor, to be attested by the manual or facsimile signature of the City Clerk, all as of this \_\_\_\_ day of \_\_\_\_\_, 2024.

CITY OF LYNDEN, WASHINGTON

By       /s/ facsimile or manual        
Mayor

ATTEST:

By       /s/ facsimile or manual        
City Clerk

The Note Registrar's Certificate of Authentication on the Note-2024A shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_, 2024

This note is described in the within-mentioned Ordinance and is the Revenue Bond Anticipation Note, 2024A (Revolving) of the City of Lynden, Washington, dated \_\_\_\_\_, 2024.

TREASURER OF THE CITY OF  
LYNDEN, as Note Registrar

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

The Loan Draw Record shall be substantially in the following form:

CITY OF LYNDEN, WASHINGTON  
REVENUE BOND ANTICIPATION NOTE, 2024A (REVOLVING)

LOAN DRAW RECORD

	Date	Amount	Total
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
[Draw][Repayment]			
Repayment			

(b) *Form of Note-2024B.* The Note-2024B shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. N-1B

\$3,000,000  
(or as much thereof as is shown on the attached Loan Draw Record)

STATE OF WASHINGTON

CITY OF LYNDEN  
LIMITED GENERAL OBLIGATION BOND AND GRANT ANTICIPATION NOTE, 2024B  
(REVOLVING)

Registered Owner: Peoples Bank  
P.O. Box 233  
Lynden, WA 98264  
Interest Rate: As described below

Maturity Date: \_\_\_\_\_, 2027

EIN Number: 91-600125

Principal Amount: THREE MILLION AND NO/100 DOLLARS (or as much thereof as is shown on the attached Loan Draw Record)

The City of Lynden, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (herein called the "City") hereby acknowledges itself to owe and for value received, promises to pay to the Registered Owner identified above, or registered assigns, an amount equal to the total outstanding incremental draws (the "Draws") made in accordance with this note and Ordinance No. 24-1686 of the City, as the same may be amended in accordance with its terms (the "Note Ordinance"). Capitalized terms used in this note shall have the meanings given such terms in the Note Ordinance.

Draws made upon this note shall bear interest at a fixed interest equal to 5.75% for the date commencing with the date of this note until the first anniversary of that date and thereafter for the second consecutive year equal to the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% as of the first anniversary date and thereafter as of the second and third year anniversary date a rate of the 1-year Federal Home Loan Bank Rate plus a margin of 0.25% in each case with a floor of 4.50% and a ceiling of 7.50%; provided, further, in the event that the interest on this note is no longer exempt from regular federal income taxation, the Interest Rate on this note shall be increased by 2.0%, effective as of the date of loss of tax-exempt status. (the "Interest Rate"). Interest shall be computed on the basis of a 365/366-day year for actual number of days elapsed) and shall accrue from the date of each Draw on the principal amount of such Draw outstanding for the actual number of days the principal amount of such Draw is outstanding. All outstanding and unpaid principal and interest due at the maturity of this note on the Maturity Date.

The City may make Draws upon this note at any time pursuant to the Note Ordinance. Draws shall be recorded on the Loan Draw Record attached to this note, or in such other form as the City and the Bank may agree. This is a revolving note, and the City may borrow and re-borrow from time hereunder; provided that the aggregate principal amount outstanding may not exceed \$3,000,000 at any time subject, however, to the further limitation that the aggregate principal amount outstanding of this note and the Note-2024A (hereinafter defined) may not at any time exceed the sum of \$5,000,000. In addition, no Draw may be made under this note if, as of the date of the draw, the aggregate principal amount outstanding under this note would exceed LGO Capacity. Simultaneously herewith, the City is issuing its Revenue Bond Anticipation Note, 2024A (Revolving), pursuant to the Note Ordinance, subject to the limitations described herein and therein.

Both principal of and interest on this note are payable in lawful money of the United States of America. The final payment of principal and interest shall be paid only upon presentation and surrender of this note to the Treasurer of the City, as "Note Registrar".

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

This note is issued under and in accordance with the provisions of the Constitution and applicable statutes of the State of Washington and ordinances of the City, including the Note Ordinance. This note is issued pursuant to the Note Ordinance for the purpose of providing the financing for certain capital improvements to property and facilities within the City.

This note is a general obligation of the City and is payable from a fund or account of the City, designated as the City of Lynden Note Redemption Fund, B (LTGO Based). The City has pledged and is obligated to deposit amounts, from the proceeds of LGO Bonds or other sources, amounts sufficient to pay and redeem this note upon maturity. The full faith, credit and resources of the City are pledged to pay this note, and tax levies within and as a part of the tax levy permitted to the City without a vote of its electors.

**THIS NOTE IS NOT TRANSFERABLE.**

This note is not a "private activity bond" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). This note is a "qualified tax-exempt obligation" under Section 265(b) of the Code for investment by financial institutions.

It is hereby certified that all acts, conditions and things required by the Constitution and statutes of the State of Washington to exist, to have happened, been done and performed precedent to and in the issuance of this note have happened, been done and performed and that the issuance of this note does not violate any constitutional, statutory or other limitation upon the amount of indebtedness that the City may incur.

IN WITNESS WHEREOF, the City of Lynden, Washington has caused this note to be signed with the manual or facsimile signature of the Mayor, to be attested by the manual or facsimile signature of the City Clerk, all as of this \_\_\_ day of \_\_\_\_\_, 2024.

CITY OF LYNDEN, WASHINGTON

By \_\_\_\_\_  
/s/ facsimile or manual  
Mayor

ATTEST:

By           /s/ facsimile or manual            
City Clerk

The Note Registrar’s Certificate of Authentication on the Note-2024B shall be in substantially the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_, 2024

This note is described in the within-mentioned Ordinance and is the General Obligation Bond and Grant Anticipation Note, 2024B (Revolving) of the City of Lynden, Washington, dated \_\_\_\_\_, 2024.

TREASURER OF THE CITY OF  
LYNDEN, as Note Registrar

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

The Loan Draw Record shall be substantially in the following form:

CITY OF LYNDEN, WASHINGTON  
LIMITED GENERAL OBLIGATION BOND AND GRANT ANTICIPATION NOTE, 2024B  
(REVOLVING)

LOAN DRAW RECORD

	Date	Amount	Total
<u>[Draw][Repayment]</u>	_____	_____	_____
<u>[Draw][Repayment]</u>	_____	_____	_____
<u>[Draw][Repayment]</u>	_____	_____	_____
<u>[Draw][Repayment]</u>	_____	_____	_____
<u>[Draw][Repayment]</u>	_____	_____	_____
Repayment	_____	_____	_____

**Section 6. Execution of Notes.** The Notes shall be signed by the manual or facsimile signature of the Mayor of the City and attested by the manual or facsimile signature of the City Clerk. The Notes shall not be valid for any purpose until the Certificate of Authentication on the Notes shall have been signed by the Note Registrar.

Section 7. Tax Covenants. The City hereby covenants that it will not make any use of the proceeds of the sale of the Notes or any other funds of the City which may be deemed to be proceeds of such Notes pursuant to Section 148 of the Code which will cause the Notes to be “arbitrage bonds” within the meaning of said section. The City will comply with the requirements of Section 148 of the Code (or any successor provision thereof applicable to the Notes) and the applicable Regulations thereunder throughout the term of the Notes.

Initially, in 2024 and thereafter, unless otherwise notice is provided to the Bank by the City, the Notes shall be deemed designated as “qualifying tax-exempt obligations” pursuant to Section 265(b) of the Code for investment by financial institutions. The City does not anticipate that it will issue more than \$10,000,000 in tax exempt obligations during 2024 nor in any year thereafter, unless the City otherwise notifies the Bank.

The City covenants that for as long as the Notes are outstanding, it will not permit:

(1) More than 10% of the net proceeds of the Notes to be used for any Private Person Use; and

(2) More than 10% of the principal or interest payments on the Notes in a year to be directly or indirectly: (A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or (B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use.

The City further covenants that, if:

(3) More than five percent of the net proceeds of the Notes are to be used for any Private Person Use; and

(4) More than five percent of the principal or interest payments on the Notes in a year are (under the terms of this ordinance or any underlying arrangement) directly or indirectly:

(A) secured by any interest in property used or to be used for any Private Person Use or secured by payments in respect of property used or to be used for any Private Person Use, or

(B) derived from payments (whether or not made to the City) in respect of property, or borrowed money, used or to be used for any Private Person Use, then, (i) any Private Person Use of the projects described in subsection (3) hereof or Private Person Use payments described in subsection (4) hereof that is in excess of the five percent limitations described in such subsections (3) or (4) will be for a Private Person Use that is related to the state or local governmental use of the Project, and (ii) any Private



Person Use will not exceed the amount of net proceeds of the Notes used for the state or local governmental use portion of such projects to which the Private Person Use of such portion of the project relates. The City further covenants that it will comply with any limitations on the use of the projects by other than state and local governmental users that are necessary, in the opinion of its bond counsel, to preserve the tax exemption of the interest on the Notes. The covenants of this section are specified solely to assure the continued exemption from regular income taxation of the interest on the Notes.

Section 8. Note Funds.

(a) *Note Fund – 2024A.* A special fund of the City known as the “City of Lynden Note Redemption Fund, A (Utility Based)” (the “Note Fund-2024A”) is hereby authorized to be created in the office of the Treasurer. The Note Fund-2024A shall be drawn upon for the sole purpose of paying the principal of and interest the Note-2024A.

The City hereby covenants with the Bank that it will deposit in the Note Fund-2024A proceeds of the Revenue Bonds and state loans to the extent such loans are payable solely from the net revenue of the City’s water/sewer utility or a combination of the foregoing in amounts sufficient to pay when due the principal of and interest on the Note-2024A.

The Note-2024A shall be an obligation only of the Note Fund-2024A and is not a general obligation of the City.

(b) *Note Fund – 2024B.* A fund or account of the City known as the “City of Lynden Note Redemption Fund/Account, B (LTGO Based)” (the “Note Fund-2024B”) is hereby authorized to be created in the office of the Treasurer. The Note Fund-2024B shall be drawn upon for the sole purpose of paying the principal of and interest the Note-2024B.

The City hereby covenants with the Bank that it will deposit in the Note Fund-2024B proceeds of the LGO Bonds or funds from other sources in amounts sufficient to pay when due the principal of and interest on the Note-2024B. The full faith and credit of the City is hereby pledged to the repayment of Note-2024B, and the City shall levy taxes, if necessary, within and as a part of the tax levy permitted to the City without a vote of the electors to pay the principal of and interest on the Note-2024B.

Section 9. Sale of Notes; Additional Commitments. The Notes shall be sold to the Bank at a price of par in accordance with the terms of this ordinance. In accordance with the term sheet from the Bank, dated March 4, 2024, the City shall pay the Bank’s origination fee of \$2,500 on or prior to the Closing Date.

The City hereby further commitments to provide financial information regarding the City and its affairs as the Bank may from time to time reasonably request, including, but not limited to, annual financial statements/reports, audit reports and audited financial statements, as available.

The proper officials of the City are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Notes and the items required to be delivered to the Bank and for the proper use and application of the proceeds of sale thereof.

Section 10. Lost, Stolen or Destroyed Notes. In case either Note shall be lost, stolen or destroyed, the City may execute and the Note Registrar may deliver a new note of like date, series and tenor to the Bank and upon its filing with the Note Registrar evidence satisfactory to said Note Registrar that the Note was actually lost, stolen or destroyed, and upon furnishing the Note Registrar with indemnity satisfactory to the Note Registrar.

Section 11. Undertaking to Provide Information. The City is exempt from the ongoing disclosure requirements of the Rule by reason of the exemption set forth in subsection (d)(1) of that Rule with respect to the issuance of securities in authorized denominations of \$100,000 or more.

Section 12. Ordinance and Laws a Contract with the Bank. This ordinance is adopted under the authority of and in full compliance with the Constitution and laws of the State of Washington. In consideration of the loan made by the Bank, evidenced by the Bond, the provisions of this ordinance and of said laws shall constitute a contract with the Bank, and the obligations of the City and its Council under said laws and under this ordinance shall be enforceable by any court of competent jurisdiction; and the covenants and agreements herein and in the Bond set forth shall be for the equal benefit of the Bank and any permitted transferee or assignee.

Section 13. Ratification; General Authorization. The Mayor and Finance Director and other appropriate officers of the City are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 14. Severability. If any one or more of the covenants or agreements provided in this ordinance to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Notes.

Section 15. Effective Date. This ordinance shall be in effect five days after its publication as provided by law.

PASSED BY THE CITY COUNCIL BY AN AFFIRMATIVE VOTE, \_\_\_\_ IN FAVOR,  
\_\_\_\_ AGAINST, AND SIGNED BY THE MAYOR THIS 9<sup>th</sup> DAY OF MAY, 2024.

\_\_\_\_\_  
Mayor

ATTEST:

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

## CERTIFICATE

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

1. That the attached Ordinance is a true and correct copy of Ordinance No. 24-1686 of the City Council (the "Ordinance"), duly passed at a special meeting thereof held on the 9<sup>th</sup> day of May, 2024.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a legal quorum 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 the Ordinance; that all other requirements and proceedings incident to the proper passage of the 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 this 6th day of May, 2024.

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City Clerk