

ORDINANCE NO. 519

AN ORDINANCE of the City of University Place, Washington, authorizing the issuance of limited tax general obligation bonds to provide financing for the construction of a garage and, pending the issuance of those bonds, authorizing the issuance of a limited tax general obligation bond anticipation note in the principal amount of not to exceed \$5,000,000; and fixing the form and terms of the note.

WHEREAS, it is in the best interest of the City of University Place, Washington (the "City") to finance construction of a parking garage in the City's Town Center and other construction projects within the Town Center; and

WHEREAS, Bank of America, N.A. has offered to extend the City a non-revolving line of credit to finance such construction pending the issuance of bonds; and

WHEREAS, RCW 39.46.050 authorizes local governments to establish lines of credit with any qualified public depository to be drawn upon in exchange for its obligations; and

WHEREAS, RCW 39.50.020 authorizes local governments to issue notes in anticipation of the issuance of bonds; and

WHEREAS, the Council deems it to be in the best interest of the City that it sell a note to Bank of America, N.A. to evidence the line of credit;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF UNIVERSITY PLACE, WASHINGTON, DO ORDAIN as follows:

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

Authorized Officer means the Finance Director of the City, or his designee.

Bank means Bank of America, N.A..

Bonds means the Limited Tax General Obligation Bonds to be issued to pay and redeem the Note or any refunding note or notes.

City means the City of University Place, Washington.

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

Note means the not to exceed \$5,000,000 Limited Tax General Obligation Bond Anticipation Note, 2008 (Taxable) of the City issued pursuant to this ordinance.

Note Account means the Limited Tax General Obligation Bond Anticipation Note Account, 2008, established pursuant to Section 5.

Note Registrar means the Finance Director.

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

Prime Rate means the rate of interest publicly announced from time to time by the Bank as its "Prime Rate." The Prime Rate is set by the Bank based upon various factors, including the Bank's costs and desired return, general economic conditions and other factors and is used as a reference point for pricing some loans. The Bank may price loans to its customers at, above or below the Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of a change in the Bank's Prime Rate.

Proposal means the proposal letter dated March 10, 2008, submitted by the Bank to purchase the Note and attached as Exhibit A.

Request for Draw means an oral or written request by an Authorized Officer for a draw from the non-revolving line of credit authorized to be established by this ordinance, all as more fully described in Section 3.

Section 2. Authorization of the Bonds. For the purpose of providing funds necessary to repay the Note, the Council shall issue Bonds in such amount and form and with such terms, as shall be determined by ordinance of the Council. The proceeds of the Bonds shall be paid into the Note Account and applied, together with other available funds, in amounts sufficient to repay the Note.

Section 3. Authorization and Description of Note. For the purpose of providing all or part of the money required to finance the construction of a garage within the Town Center in the City and other construction projects within the Town Center, and pay interest on and costs of issuing the Note pending the issuance of the Bonds, the City shall issue its Limited Tax General Obligation Bond Anticipation Note, 2008 (Taxable), in the maximum principal amount of not to exceed \$5,000,000. The Note shall be designated the "Limited Tax General Obligation Bond Anticipation Note, 2008 (Taxable)"; shall be issued in fully registered form; shall be numbered R-1; shall be dated as of its date of delivery to the Bank; and shall mature on December 31, 2009.

The City may make incremental draws upon the Note in any amount, pursuant to a Request for Draw, on any business day during the term of the Note to carry out the purposes of the Note, subject to the limitations that the aggregate amount of all draws made upon the Note may not exceed \$5,000,000.

Pursuant to the Bank's Proposal, amounts drawn on the Note pursuant to a Request for Draw shall bear interest at a floating rate equal to the Prime Rate minus 1.85%.

Interest on the Outstanding Principal Balance of the Note shall accrue from the date such principal is drawn under the Note until paid. Interest shall be calculated on the basis of a 360-day year and the actual number of days elapsed. Interest shall be payable quarterly, on each June 30, September 30, December 30, and March 31, beginning June 30, 2008 and at maturity or upon prepayment. All principal on the Note shall be paid at maturity or upon prepayment. The unused balance of the non-revolving line of credit that is available to be drawn by the City shall be subject to a fee of 0.10% per annum, payable quarterly in arrears on each June 30, September 30, December 31, and March 31, beginning June 30, 2008. Such fee is calculated on the actual daily unused principal amount of the non-revolving line of credit for the quarter then ending. For purposes of this calculation, amounts drawn and subsequently repaid are considered "used."

Principal of and interest on the Note shall be payable as described in Section 5 below. If the Note is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on the Note at two percentage points above the rate specified above from and after the maturity or call date until the Note, both principal and interest, is paid in full or until sufficient money for that payment in full is on deposit in the Note Account.

Section 4. Designation of Officers to Make Request for Draws. The City Council has determined it to be in the best interest of the City that the Finance Director, or her or his designee, is authorized to make Requests for Draws against the Note in the amounts and at the times as she or he may determine, those draws to be made in accordance with the terms and provisions set forth herein, but no later than 1:00 pm Pacific time on the day the draw is requested to be made. Requests for Draws may be made by telephone or facsimile of the City to

the Bank and a transfer of funds shall be made immediately by the Bank to the City's account as determined by the Finance Director or his designee.

Section 5. Note Redemption Account and Security for the Note. A special account of the City to be known as the "City of University Place Limited Tax General Obligation Bond Anticipation Note Account, 2008" (the "Note Account") in the Debt Service Fund is hereby authorized to be created by the Finance Director. The Note Account shall be a trust account and shall be drawn upon for the sole purpose of paying the principal of and interest on the Note. Money on deposit in the Note Account not immediately needed to pay such interest or principal may temporarily be deposited in such institutions or invested in such obligations that are legal investments for City funds. Any interest or profit from the investment of such money shall be deposited in the Note Account. Any money remaining in the Note Account after payment in full of the principal of and interest on the Note may be transferred to the general fund of the City, and the Note Account shall be closed.

The City covenants that on or before the maturity date of the Note it will issue the Bonds, refunding bond anticipation notes, or a combination of the foregoing in an amount sufficient to pay the Note when due.

The Note is a general obligation of the City. The City hereby irrevocably covenants that it will levy taxes annually upon all the taxable property in the City without limitation as to rate or amount and in amounts sufficient, with other money legally available therefor, to pay the principal of and interest on the Note as the same shall become due. The full faith, credit and resources of the City are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest. The pledge of tax levies may be discharged prior to maturity of the Note by making full provision for the payment thereof.

Section 6. Application of Note Proceeds. Proceeds received from draws on the Note shall be deposited in the Note Proceeds Account in the Debt Service Fund and be used to construct the parking garage and pay costs of issuing the Note. Money in such account shall be invested in legal investments for City funds. Upon completion of such project or a decision not to complete any portion of the project, any remaining money in the fund shall be transferred to the Note Account or used for other capital purposes.

Section 7. Lost, Stolen or Destroyed Note. In case the Note shall be lost, stolen or destroyed, the Note Registrar may execute and deliver a new Note of like date and tenor to the owner upon the owner paying the expenses and charges of the City and upon filing with the Note Registrar evidence satisfactory to the Note Registrar that such Note was actually lost, stolen or destroyed and of its ownership thereof, and upon furnishing the City with indemnity satisfactory to the City.

Section 8. Prepayment. The City may prepay the Note in whole or in part on any business day by paying the principal amount thereof to be prepaid together with accrued interest to the date of prepayment. If the Note is prepaid in full, interest shall cease to accrue on the date such prepayment occurs.

Section 9. Note Registrar. The Note Registrar shall keep, or cause to be kept, at the office of the Finance Director, sufficient records for the registration and transfer of the Note. The Note Registrar is authorized, on behalf of the City, to authenticate and deliver the Note in accordance with the provisions of the Note and this ordinance, to serve as the City's paying agent for the Note and to carry out all of the Note Registrar's powers and duties under this ordinance.

Section 10. Form and Execution of Note. The Note shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. _____ \$ _____

STATE OF WASHINGTON

CITY OF UNIVERSITY PLACE, WASHINGTON
LIMITED TAX GENERAL OBLIGATION BOND ANTICIPATION NOTE, 2008 (TAXABLE)

REGISTERED OWNER: Bank of America, N.A.

MATURITY DATE: December 31, 2009

The City of University Place, Washington (the "City"), a municipal corporation organized and existing under the laws of the State of Washington, hereby acknowledges itself to owe and for value received promises to pay, but solely from the Note Account hereinafter identified, to the Registered Owner identified above on December 31, 2009, the principal sum of amounts drawn on the Note pursuant to a Request for Draw (with all such draws in the aggregate not to exceed \$5,000,000), from the date hereof. Each amount drawn pursuant to a Request for Draw under this Note shall bear interest at the Prime Rate minus 1.85%, as set forth in Ordinance No. 519 of the City, passed on March 17, 2008 (the "Note Ordinance"). Interest on this Note shall accrue from the date money is drawn, pursuant to a Request for Draw, until paid and shall be computed on the Outstanding Principal Balance on the basis of a 360-day year and the actual days elapsed. Interest shall be payable quarterly, beginning June 30, 2008 and at maturity or upon early prepayment. Principal on this Note shall be paid on the Maturity Date identified above. Upon payment of this Note in full, the Registered Owner shall surrender this Note at the office of the City Finance Director for cancellation. Both principal of and interest on this Note are payable in lawful money of the United States of America.

The City may prepay this Note in whole or in part on any business day by paying the principal amount thereof to be prepaid together with accrued interest to the date of prepayment. Interest shall cease to accrue on the date this Note is prepaid in full.

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 Registration Certificate hereon shall have been manually signed by the Note Registrar. Reference is made to the Note Ordinance for definitions of capitalized terms.

This Note is issued pursuant to the Note Ordinance for the purpose of financing the construction of a garage in anticipation of the issuance of bonds, all in conformity with the Constitution and laws of the State of Washington.

Section 11. Execution. The Note shall be executed on behalf of the City with the manual or facsimile signature of its Mayor, shall be attested by the facsimile or manual signature of the City Clerk and shall have the seal of the City impressed or imprinted thereon.

If any officer whose signature appears on the Note ceases to be an officer of the City authorized to sign bonds before the Note bearing his or her signature is authenticated or delivered by the Note Registrar or issued by the City, the Note nevertheless may be authenticated, delivered and issued 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 Note also may be signed on behalf of the City by any person who, on the actual date of signing of the Note, 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 Note.

Section 12. Sale of Note. The Council hereby authorizes the sale of the Note to the Bank pursuant to the terms of the Bank's Proposal attached hereto and authorizes the Finance Director to accept a binding offer from the Bank consistent with the Terms of the Proposal. Upon delivery of the Note, the City shall pay to the Bank a fee of \$2,500, and reimburse the Bank for its legal fees in an amount of not to exceed \$600, which payments shall be made by check, wire transfer or other mutually acceptable means.

Section 13. Information Provided to Bank. The City will provide the following information to the Bank: (1) audited financial statements within 10 days of publishing by the State auditor; and (2) the City's annual budget due within 30 days of adoption.

Section 14. Interest Rate upon Default. If there occurs any nonpayment of principal, interest, fees or other amounts when due under the Note or this ordinance, then the Bank at its option may increase the interest rate on the Note by two percentage points.

Section 15. Ratification; General Authorization. The Finance Director and other appropriate officers of the City are authorized to take any actions and to execute documents as in their judgment may be necessary or desirable in order to carry out the terms of, and complete the transactions contemplated by, this ordinance. All acts taken pursuant to the authority of this ordinance but prior to its effective date are hereby ratified.

Section 16. 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 provision of this ordinance and shall in no way affect the validity of the other provisions of this ordinance or of the Note.

Section 17. Effective Date. This ordinance shall become effective five days after its passage and publication.

PASSED by the Council of the City of University Place, Washington, at a regular meeting thereof, held this 17th day of March, 2008.

CITY OF UNIVERSITY PLACE,
WASHINGTON

Linda Bird

Mayor

ATTEST:

Spina

City Clerk

APPROVED AS TO FORM:

Ray Adams

K&L Preston Gates Ellis LLP

FILED WITH THE CITY CLERK:

PASSED BY THE CITY COUNCIL:

PUBLISHED:

EFFECTIVE DATE:

ORDINANCE NO.:


CERTIFICATE

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

1. That the attached ordinance is a true and correct copy of Ordinance No. _____ of the Council (herein called the "Ordinance"), duly passed at a regular meeting thereof held on the 17th day of March, 2008.

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 Council voted in the proper manner for the passage of said Ordinance; that all other requirements and proceedings incident to the proper 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 17th day of March, 2008.



City Clerk



Nancy D. Nuereberg
Senior Vice President

Government Banking
WA1-501-34-03
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Seattle, WA 98104

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March 10, 2008

Mr. Dave Layden
Finance Director
City of University Place
1101 D Street NE
Auburn, WA 98002

Re: \$5,000,000 LTGO Non-Revolving Line of Credit (Taxable), Series 2008

Dear Dave:

Bank of America N. A. is pleased to provide the attached proposal for a new Non-Revolving Line of Credit (the "Credit Facility") to the City of University Place. The Credit Facility will be used to help finance the construction of a parking garage, other Town Center related construction projects and pay expenses associated with issuance of the Credit Facility.

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

The terms of this letter are confidential and, except for disclosure on a confidential basis to the accountants, attorneys and other professional advisors retained by the City in connection with the products and services therein or as may be required by law (including any public meeting or public disclosure law), may not be disclosed by the City or any of such advisers in whole or in part to any other person or entity without our prior written consent.

We appreciate the opportunity to present you with this proposal. Please call me at (206)358-6279, or Tana Aardal at (206)358-8935, to discuss any questions or comments you may have.

Sincerely,
Bank of America, N.A.

Nancy D. Nuereberg, SVP
Sr. Credit Products Officer

cc: Nancy Neraas, K&L Gales
Tana Aardal, Bank of America
Brennan Church, Bank of America



Exhibit A
Summary of Terms and Conditions
(For Discussion Purposes Only)
March 10, 2008

BORROWER: City of University Place (the "Borrower")

LENDER: Bank of America N.A. ("Bank")

PROPOSED CREDIT FACILITY: \$5,000,000 Non-Revolving Line of Credit – Limited Tax General Obligation (the "Credit Facility"), Taxable.

SECURITY: Limited Tax General Obligation of the Borrower.

CLOSING DATE: Estimated on or before March 31, 2008.

MATURITY DATE: Estimated on 12/31/2009.

PURPOSE: Interim financing which will be used to finance (a) construction of a new parking garage, (b) other Town Center related construction projects, and (c) costs associated with issuing the Credit Facility.

INTEREST RATE:

- A rate per year equal to Bank's Prime Rate, minus a spread of 1.85%.
- Indicative Rate based on the Prime Rate of 6.00% as of March 10, 2008 is 4.15%.

Bank of America Prime Rate: The Prime Rate is the rate of interest publicly announced from time to time by Bank of America as its Prime Rate. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of a change in Bank of America's Prime Rate. No minimum draw requirement on Prime Rate borrowings.

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

ORIGINATION FEE: 5 bps (\$2,500)

UNUSED COMMITMENT FEE: Borrower agrees to pay Bank an unused commitment fee of 0.10% per annum, payable quarterly in arrears, calculated on the difference between the maximum amount of the Credit Facility and the average principal amount outstanding for the preceding semi-annual period.



REPAYMENT:

- Interest on the outstanding principal balance of the Credit Facility is payable quarterly in arrears and at Maturity
- Principal outstanding on the Credit Facility is payable in full at Maturity.

DRAW PROCEDURES:

- Draws may be requested in amounts as needed in a sum of up to the total Amount of the Credit Facility.
- Draws may be requested on a same day basis, up to 1pm.

COVENANTS:

Borrower covenants to levy and collect taxes in an aggregate amount sufficient to pay all costs of operation of Borrower, including repay the principal and interest on the Credit Facility.

PREPAYMENT FEES:

None.

EVENTS OF DEFAULT:

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

FINANCIAL REPORTING REQUIREMENTS:

- State Audit Report of the Borrower within 10 days of receipt from State auditor.
- Borrower's annual budget within 30 days of adoption by the City Council.

EXPENSES:

Borrower will pay all reasonable costs and expenses associated with the preparation and review of all documentation executed in connection with the Credit Facility, including Bank of America's attorneys' fees, whether or not the Credit Facility is closed; Borrower's outside legal counsel fees (subject to a cap of \$600.00); and any other costs associated with documenting and closing the Credit Facility.

DOCUMENTATION:

- All documentation, including the form of legal opinion to be issued by Borrower's legal counsel, is subject to review and approval by Bank of America's legal counsel.

Documentation to include:

- A unqualified legal opinion of nationally recognized bond counsel, in form and substance acceptable to Bank and its legal counsel, that (i) the Ordinance and all documents related to the Credit Facility have been properly adopted, authorized and executed; and (ii) the Ordinance and all documents related to the Credit Facility constitute a legally binding obligation of the Borrower, enforceable according to their terms (subject to standard exceptions).
- A copy of the Ordinance passed by Borrower's City Council authorizing the issuance of the Credit Facility;
- Receipt of the original signed Note at closing.



**STATUTORY
DISCLOSURES:**

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO
LOAN MONEY, TO EXTEND CREDIT, OR TO FORBEAR
FROM ENFORCING REPAYMENT OF A DEBT ARE NOT
ENFORCEABLE UNDER WASHINGTON LAW.**

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

UNOFFICIAL DOCUMENT