

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2037

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, RELATING TO CONTRACTING INDEBTEDNESS; PROVIDING FOR THE ISSUANCE OF \$940,000 PAR VALUE OF LIMITED TAX GENERAL OBLIGATION BONDS, 2005, OF THE CITY FOR GENERAL CITY PURPOSES TO PROVIDE FUNDS WITH WHICH TO PAY A PART OF THE COST OF CONSTRUCTING THE SNOHOMISH RIVER TRAIL AND OTHER RECREATIONAL TRAILS AND ACQUIRING RADIO EQUIPMENT AND TECHNOLOGY INFRASTRUCTURE; FIXING THE DATE, FORM, MATURITIES, INTEREST RATES, TERMS AND COVENANTS OF THE BONDS; ESTABLISHING A BOND REDEMPTION FUND; AND APPROVING THE SALE AND PROVIDING FOR THE DELIVERY OF THE BONDS TO MARTIN NELSON & CO., INC. OF SEATTLE, WASHINGTON.

PASSED AUGUST 2, 2005

This document prepared by:

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WHEREAS, the City of Snohomish, Washington (the “City”), is in need of constructing the Snohomish River Trail and other recreational trails and acquiring radio equipment and technology infrastructure to connect the City into the Snohomish County 800 Mhz system, the estimated cost of which is \$2,370,000, and the City does not have available sufficient funds to pay the cost;

NOW, THEREFORE, the City Council of the City of Snohomish, Washington, do ordain as follows:

Section 1. Debt Capacity. The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes for the calendar year 2005 is \$706,248,300, and the City has \$19,877 outstanding general indebtedness evidenced by public works trust fund loans and no outstanding limited tax general obligation bonds incurred within the limit of up to 1-1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein, unlimited tax general obligation bonds in the principal amount of \$425,000 incurred within the limit of up to 2-1/2% of the value of the taxable property within the City for capital purposes only, issued pursuant to a vote of the qualified voters of the City, and the amount of indebtedness for which bonds are authorized herein to be issued is \$940,000.

Section 2. Authorization of Bonds. The City shall borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing that indebtedness in the amount of \$940,000 for general City purposes to provide the funds to pay part of the cost of constructing the Snohomish River Trail and other recreational trails and acquiring radio equipment and technology infrastructure to connect the City into the Snohomish County 800 Mhz system (collectively, the “Projects”) and to pay the costs of issuance and sale of the bonds (the “costs of issuance”). The general indebtedness to be incurred shall be within the limit of up to 1-

1/2% of the value of the taxable property within the City permitted for general municipal purposes without a vote of the qualified voters therein.

Section 3. Description of Bonds. The bonds shall be called Limited Tax General Obligation Bonds, 2005, of the City (the “Bonds”); shall be in the aggregate principal amount of \$940,000; shall be dated their date of initial delivery; shall be in the denomination of \$5,000 or any integral multiple thereof within a single maturity; shall be numbered separately in the manner and with any additional designation as the fiscal agent of the State of Washington (as the same may be designated by the State of Washington from time to time) (the “Bond Registrar”) deems necessary for purposes of identification; shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) payable semiannually on each June 1 and December 1, commencing June 1, 2006, to the maturity or earlier redemption of the Bonds; and shall mature on December 1 in years and amounts and bear interest at the rates per annum as follows:

<u>Maturity Years</u>	<u>Amounts</u>	<u>Interest Rates</u>
2006	\$ 25,000	5.00%
2007	40,000	5.00
2008	40,000	5.00
2009	40,000	5.00
2010	50,000	5.00
2011	50,000	5.00
2012	50,000	5.00
2013	55,000	5.00
2014	55,000	5.00
2015	55,000	5.00
2016	40,000	4.40
2017	40,000	4.45
2018	40,000	4.55
2019	45,000	4.60
2020	45,000	4.65
**	**	**
2025	270,000	4.80

The life of the capital facilities to be constructed and/or acquired with the proceeds of the Bonds exceeds the term of the Bonds allocable to the respective Project.

Section 4. Registration and Transfer of Bonds. The Bonds shall be issued only in registered form as to both principal and interest and shall be recorded on books or records maintained by the Bond Registrar (the “Bond Register”). The Bond Register shall contain the name and mailing address of the owner of each Bond and the principal amount and number of each of the Bonds held by each owner.

Bonds surrendered to the Bond Registrar may be exchanged for Bonds in any authorized denomination of an equal aggregate principal amount and of the same interest rate and maturity. Bonds may be transferred only if endorsed in the manner provided thereon and surrendered to the Bond Registrar. Any exchange or transfer shall be without cost to the owner or transferee.

The Bond Registrar shall not be obligated to exchange or transfer any Bond during the 15 days preceding any principal payment or redemption date.

The Bonds initially shall be registered in the name of Cede & Co., as the nominee of The Depository Trust Company, New York, New York (“DTC”). The Bonds so registered shall be held in fully immobilized form by DTC as depository in accordance with the provisions of a Blanket Issuer Letter of Representations with DTC substantially in the form on file with the City Clerk and by this reference made a part hereof (as it may be amended from time to time, the “Letter of Representations”). To induce DTC to accept the Bonds as eligible for deposit at DTC, the City approves the Letter of Representations. The Mayor or City Manager of the City is authorized and directed to execute and deliver the Letter of Representations, on behalf of the City, to DTC on or before the date of delivery of the Bonds to the purchaser thereof and the payment therefor, with such changes as the Mayor or City Manager of the City deems to be in the best interest of the City, and his execution and delivery of the Letter of Representations shall evidence irrevocably the approval of the Letter of Representations by the City. Neither the City nor the Bond Registrar shall have any responsibility or obligation to DTC participants or the persons for whom they act as nominees with respect to the Bonds regarding accuracy of any records maintained by DTC or DTC participants of any amount in respect of principal of or interest on the Bonds, or any notice which is permitted or required to be given to registered owners hereunder (except such notice as is required to be given by the Bond Registrar to DTC).

For as long as any Bonds are held in fully immobilized form, DTC, its nominee or its successor depository shall be deemed to be the registered owner for all purposes hereunder and all references to registered owners, bondowners, bondholders or the like shall mean DTC or its nominee and shall not mean the owners of any beneficial interests in the Bonds. Registered ownership of such Bonds, or any portions thereof, may not thereafter be transferred except: (i) to any successor of DTC or its nominee, if that successor shall be qualified under any applicable laws to provide the services proposed to be provided by it; (ii) to any substitute depository appointed by the City or such substitute depository’s successor; or (iii) to any person if the Bonds are no longer held in immobilized form.

Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository, or a determination by the City that it no longer wishes to continue the system of book entry transfers through DTC or its successor (or any substitute depository or its successor), the City may appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

If (i) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (ii) the City determines that the Bonds are to be in certificated form, the ownership of Bonds may be transferred to any person as provided herein and the Bonds no longer shall be held in fully immobilized form.

Section 5. Payment of Bonds. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be paid by checks or drafts of the Bond Registrar mailed on the interest payment date to the registered owners at the addresses appearing on the Bond Register on the 15th day of the month preceding the interest payment date or, if requested in writing by a registered owner of Bonds prior to the

applicable record date, by wire transfer on the interest payment date; provided that, the costs of such wire transfer shall be paid by the requesting registered owner. Principal of the Bonds shall be payable upon presentation and surrender of the Bonds by the registered owners to the Bond Registrar. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, payment of principal of and interest on the Bonds shall be made in the manner set forth in the Letter of Representations.

Section 6. Redemption Provisions and Open Market Purchase of Bonds. Bonds maturing in the years 2006 through 2015, inclusive, shall be issued without the right or option of the City to redeem those Bonds prior to their stated maturity dates. The City reserves the right and option to redeem the Bonds maturing on or after December 1, 2016, prior to their stated maturity dates at any time on or after December 1, 2015, as a whole or in part (within one or more maturities selected by the City and randomly within a maturity in such manner as the Bond Registrar shall determine), at par plus accrued interest to the date fixed for redemption.

Bonds maturing in 2025 are Term Bonds and, if not redeemed under the optional redemption provisions set forth above or purchased in the open market under the provisions set forth below, shall be called for redemption randomly (in such manner as the Bond Registrar shall determine) at par plus accrued interest on December 1 in years and amounts as follows:

Mandatory Redemption <u>Years</u>	Mandatory Redemption <u>Amounts</u>
2021	\$50,000
2022	50,000
2023	55,000
2024	55,000
2025 (maturity)	60,000

If the City shall redeem Term Bonds under the optional redemption provisions set forth above or purchase Term Bonds in the open market as set forth below, the par amount of the Term Bonds so redeemed or purchased (irrespective of their actual redemption or purchase prices) shall be credited against one or more scheduled mandatory redemption amounts for those Term Bonds (as allocated by the City) beginning not earlier than 60 days after the date of the optional redemption or purchase, and the City shall promptly notify the Bond Registrar in writing of the manner in which the credit for the Term Bonds so redeemed or purchased has been allocated.

Portions of the principal amount of any Bond, in installments of \$5,000 or any integral multiple thereof, may be redeemed. If less than all of the principal amount of any Bond is redeemed, upon surrender of that Bond to the Bond Registrar, there shall be issued to the registered owner, without charge therefor, a new Bond (or Bonds, at the option of the registered owner) of the same maturity and interest rate in any of the denominations authorized by this ordinance in the aggregate principal amount remaining unredeemed.

The City further reserves the right and option to purchase any or all of the Bonds in the open market at any time at any price acceptable to the City plus accrued interest to the date of purchase.

All Bonds purchased or redeemed under this section shall be canceled.

Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, selection of Bonds for redemption shall be in accordance with the Letter of Representations.

Section 7. Notice of Redemption. The City shall cause notice of any intended redemption of Bonds to be given not less than 30 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the registered owner of any Bond to be redeemed at the address appearing on the Bond Register at the time the Bond Registrar prepares the notice, and the requirements of this sentence shall be deemed to have been fulfilled when notice has been mailed as so provided, whether or not it is actually received by the owner of any Bond. Interest on Bonds called for redemption shall cease to accrue on the date fixed for redemption unless the Bond or Bonds called are not redeemed when presented pursuant to the call. In addition, the redemption notice shall be mailed within the same period, postage prepaid, to each NRMSIR or the MSRB and to such other persons and with such additional information as the City Treasurer shall determine, but these additional mailings shall not be a condition precedent to the redemption of Bonds. Notwithstanding the foregoing, for as long as the Bonds are registered in the name of DTC or its nominee, notice of redemption shall be given in accordance with the Letter of Representations.

Section 8. Failure To Redeem Bonds. If any Bond is not redeemed when properly presented at its maturity or call date, the City shall be obligated to pay interest on that Bond at the same rate provided in the Bond from and after its maturity or call date until that Bond, both principal and interest, is paid in full or until sufficient money for its payment in full is on deposit in the bond redemption fund hereinafter created and the Bond has been called for payment by giving notice of that call to the registered owner of each of those unpaid Bonds.

Section 9. Pledge of Taxes. For as long as any of the Bonds are outstanding, the City irrevocably pledges to include in its budget and levy taxes annually within the constitutional and statutory tax limitations provided by law without a vote of the electors of the City on all of the taxable property within the City in an amount sufficient, together with other money legally available and to be used therefor, to pay when due the principal of and interest on the Bonds, 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.

Section 10. Form and Execution of Bonds. The Bonds shall be printed or lithographed on good bond paper in a form consistent with the provisions of this ordinance and state law and shall be signed by the Mayor and City Clerk, either or both of whose signatures may be manual or in facsimile, and the seal of the City or a facsimile reproduction thereof shall be impressed or printed thereon.

Only Bonds bearing a Certificate of Authentication in the following form, manually signed by the Bond Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this ordinance:

CERTIFICATE OF AUTHENTICATION

This Bond is one of the fully registered City of Snohomish, Washington, Limited Tax General Obligation Bonds, 2005, described in the Bond Ordinance.

WASHINGTON STATE FISCAL AGENT
Bond Registrar

By _____
Authorized Signer

The authorized signing of a Certificate of Authentication shall be conclusive evidence that the Bond so authenticated has been duly executed, authenticated and delivered and is entitled to the benefits of this ordinance.

If any officer whose facsimile signature appears on the Bonds ceases to be an officer of the City authorized to sign bonds before the Bonds bearing his or her facsimile signature are authenticated or delivered by the Bond Registrar or issued by the City, those Bonds nevertheless may be authenticated, issued and delivered and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign bonds. Any Bond also may be signed on behalf of the City by any person who, on the actual date of signing of the Bond, is an officer of the City authorized to sign bonds, although he or she did not hold the required office on the date of issuance of the Bonds.

Section 11. Bond Registrar. The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bonds, which shall be open to inspection by the City at all times. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of the Bonds and this ordinance, to serve as the City's paying agent for the Bonds and to carry out all of the Bond Registrar's powers and duties under this ordinance and City Ordinance No. 1556 establishing a system of registration for the City's bonds and obligations.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bonds. The Bond Registrar may become the owner of Bonds with the same rights it would have if it were not the Bond Registrar and, to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as members of, or in any other capacity with respect to, any committee formed to protect the rights of Bond owners.

Section 12. Preservation of Tax Exemption for Interest on Bonds. The City covenants that it will take all actions necessary to prevent interest on the Bonds from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bonds or other funds of the City treated as proceeds of the Bonds at any time during the term of the Bonds which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The 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 13. Small Governmental Issuer Arbitrage Rebate Exception and Designation of Bonds 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) no Bond which is part of this issue of Bonds is 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 Bonds will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (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 that the City controls, that derives its authority to issue tax-exempt obligations from the City, or that issues tax-exempt obligations on behalf of the City) during the calendar year in which the Bonds are issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Bonds, designated by the City as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Bonds are issued does not exceed \$10,000,000. The City therefore certifies that the Bonds are eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and designates the Bonds as “qualified tax-exempt obligations” for the purposes of Section 265(b)(3) of the Code.

Section 14. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to the laws of the State of Washington or use money available from any other lawful source to pay when due the principal of and interest on the Bonds, or any portion thereof included in a refunding or defeasance plan, and to redeem and retire, refund or defease all such then-outstanding Bonds (hereinafter collectively called the “defeased Bonds”) and to pay the costs of the refunding or defeasance. If money and/or “government obligations” (as defined in chapter 39.53 RCW, as now or hereafter amended) maturing at a time or times and bearing interest in amounts (together with money, if necessary) sufficient to redeem and retire, refund or defease the defeased Bonds in accordance with their terms are set aside in a special trust fund or escrow account irrevocably pledged to that redemption, retirement or defeasance of defeased Bonds (hereinafter called the “trust account”), then all right and interest of the owners of the defeased Bonds in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bonds shall cease and become void. The owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds from the trust account. The City shall include in the refunding or defeasance plan such provisions as the City deems necessary for the random selection of any defeased Bonds that constitute less than all of a particular maturity of the Bonds, for notice of the defeasance to be given to the owners of the defeased Bonds and to such other persons as the City shall determine, and for any required replacement of Bond certificates for defeased Bonds. The defeased Bonds shall be deemed no longer outstanding, and the City may apply any money in any other fund or account established for the payment or redemption of the defeased Bonds to any lawful purposes as it shall determine.

If the Bonds are registered in the name of DTC or its nominee, notice of any defeasance of Bonds shall be given to DTC in the manner prescribed in the Letter of Representations for notices of redemption of Bonds.

Section 15. Bond Fund and Deposit of Bond Proceeds. There is created and established in the office of the City Treasurer a special fund designated as the Limited Tax General Obligation Bond Fund, 2005 (the "Bond Fund"), for the purpose of paying principal of and interest on the Bonds. Accrued interest on the Bonds, if any, received from the sale and delivery of the Bonds shall be paid into the Bond Fund. All taxes collected for and allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund.

There have been previously created and established in the office of the City Treasurer special funds designated as the River Trail Construction Fund, No. 303 and the Capital Projects Fund, No. 310 (collectively, the "Project Funds"). The Treasurer is authorized to create and establish separate subaccounts within the Project Funds and to deposit proceeds of the Bonds in those subaccounts or any other fund or account of the City that he deems necessary to carry out the Projects. Until needed to pay the costs of the Projects and costs of issuance of the Bonds, the City may invest principal proceeds temporarily in any legal investment, and the investment earnings may be retained in the Project Funds and be spent for the purposes of those funds.

Section 16. Approval of Bond Purchase Contract. Martin Nelson & Co., Inc. of Seattle, Washington, has presented a purchase contract (the "Bond Purchase Contract") to the City offering to purchase the Bonds under the terms and conditions provided in the Bond Purchase Contract, which written Bond Purchase Contract is on file with the City Treasurer and is incorporated herein by this reference. The City Council finds that entering into the Bond Purchase Contract is in the City's best interest and therefore accepts the offer contained therein and authorizes its execution by City officials. The City also approves the preliminary official statement regarding the Bonds, dated July 11, 2005, and approves the use of the preliminary official statement and the final official statement in connection with the offer and sale of the Bonds.

The Bonds will be printed at City expense and will be delivered to the purchaser in accordance with the Bond Purchase Contract, with the approving legal opinion of Foster Pepper & Shefelman PLLC, municipal bond counsel of Seattle, Washington, regarding the Bonds.

The proper City officials are authorized and directed to do everything necessary for the prompt delivery of the Bonds to the purchaser and for the proper application and use of the proceeds of the sale thereof.

Section 17. Effective Date of Ordinance. This ordinance shall take effect and be in force from and after its passage and five days following its publication as required by law.

PASSED by the City Council and APPROVED by the Mayor this 2nd day of August, 2005.

CITY OF SNOHOMISH

By _____
Liz Loomis, Mayor

ATTEST:

By _____
Torchie Corey, City Clerk

APPROVED AS TO FORM:

By _____
Hugh D. Spitzer, Bond Attorney

CERTIFICATION

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

1. The attached copy of Ordinance No. 2037 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed on August 2, 2005, at a regular meeting of the City Council of the City held at a special meeting place (notice of which was given in accordance with law), as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after publication in the City's official newspaper; and

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

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of August, 2005.

CITY OF SNOHOMISH, WASHINGTON

Torchie Corey, City Clerk