

CITY OF PORT ORCHARD, WASHINGTON

ORDINANCE NO. 021-17

AN ORDINANCE of the City of Port Orchard, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of not to exceed \$6,000,000 aggregate principal amount of limited tax general obligation bonds to provide funds (i) to pay for a portion of the Tremont Widening Project, including making certain improvements to Tremont Street and related public infrastructure, (ii) to pay for the City's share of costs of various utility undergrounding projects and other capital projects, and (iii) to pay the costs of issuance and sale of the bonds; fixing or setting parameters with respect to certain terms and covenants of the bonds; appointing the City's designated representative to approve the final terms of the sale of the bonds; and providing for other related matters.

Passed June 27, 2017

Bond Counsel:

Stradling Yocca Carlson & Rauth PC
999 Third Avenue, Suite 3610
Seattle, Washington 98104
(206) 829-3000

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**The cover page, table of contents and section headings of this ordinance are for convenience of reference only, and shall not be used to resolve any question of interpretation of this ordinance.*

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THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, DO ORDAIN AS FOLLOWS:

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

(a) "*Authorized Denomination*" means \$5,000 or any integral multiple thereof within a maturity of a Series.

(b) "*Beneficial Owner*" means, with respect to a Bond, the owner of any beneficial interest in that Bond.

(c) "*Bond*" means each bond issued pursuant to and for the purposes provided in this ordinance.

(d) "*Bond Counsel*" means the firm of Stradling Yocca Carlson & Rauth, PC, its successor, or any other attorney or firm of attorneys selected by the City with a nationally recognized standing as bond counsel in the field of municipal finance.

(e) "*Bond Fund*" means the Limited Tax General Obligation Bond Fund, of the City created for the payment of the principal of and interest on the Bonds and other general obligation bonds of the City.

(f) "*Bond Purchase Agreement*" means an offer to purchase a Series of the Bonds, setting forth certain terms and conditions of the issuance, sale and delivery of those Bonds, which offer is authorized to be accepted by the Designated Representative on behalf of the City, if consistent with this ordinance.

(g) "*Bond Register*" means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of each Bond.

(h) “*Bond Registrar*” means the Fiscal Agent, or any successor bond registrar selected by the City.

(i) “*City*” means the City of Port Orchard, Washington, a municipal corporation duly organized and existing under the laws of the State.

(j) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

(k) “*Code*” means the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder.

(l) “*DTC*” means The Depository Trust Company, New York, New York, or its nominee.

(m) “*Designated Representative*” means the officer or officers of the City appointed in Section 4 of this ordinance to serve as the City’s designated representative in accordance with RCW 39.46.040(2).

(n) “*Finance Officer*” means the City Treasurer, or such other officer of the City who succeeds to substantially all of the responsibilities of that office, or his or her designee.

(o) “*Fiscal Agent*” means the fiscal agent of the State, as the same may be designated by the State from time to time.

(p) “*Government Obligations*” has the meaning given in RCW 39.53.010, as now in effect or as may hereafter be amended.

(q) “*Issue Date*” means, with respect to a Bond, the date of initial issuance and delivery of that Bond to the Purchaser in exchange for the purchase price of that Bond.

(r) “*Letter of Representations*” means the Blanket Issuer Letter of Representations between the City and DTC, authorized to be executed in connection with the issuance and sale of the Bonds authorized herein, and any successor or substitute letter relating to the operational procedures of the Securities Depository.

(s) “*MSRB*” means the Municipal Securities Rulemaking Board.

(t) “*Official Statement*” means an offering document, disclosure document, private placement memorandum or substantially similar disclosure document provided to purchasers and potential purchasers in connection with the initial offering of a Series of the Bonds in conformance with Rule 15c2-12 or other applicable regulations of the SEC.

(u) “*Owner*” means, without distinction, the Registered Owner and the Beneficial Owner.

(v) “*Projects*” means (1) the Tremont Widening Project, including making certain improvements to Tremont Street and related public infrastructure, and other capital purposes, as

deemed necessary and advisable by the City. Incidental costs incurred in connection with carrying out and accomplishing the Project, consistent with RCW 39.46.070, may be included as costs of the Project; and (2) the payment of the City's portion of utility undergrounding and other capital projects throughout the City. The Projects include acquisition, construction and installation of all necessary land, right-of-way, equipment, apparatus, accessories, and appurtenances as may be deemed necessary and advisable by the City. The term "land" includes all real property and all appurtenant improvements, structures and interests therein.

(w) "*Project Fund*" means the fund or account of the City designated by the Finance Officer to be used for the purpose of carrying out each of the Projects.

(x) "*Purchaser*" means D.A. Davidson & Co. of Seattle, Washington such other corporation, firm, association, partnership, trust, bank, financial institution or other legal entity or group of entities selected by the Designated Representative to serve as purchaser in a private placement, or underwriter in a negotiated sale.

(y) "*Rating Agency*" means any nationally recognized rating agency then maintaining a rating on the Bonds at the request of the City.

(z) "*Record Date*" means the Bond Registrar's close of business on the 15th day of the month preceding an interest payment date. With respect to redemption of a Bond prior to its maturity, the Record Date shall mean the Bond Registrar's close of business on the date on which the Bond Registrar sends the notice of redemption in accordance with Section 9.

(aa) "*Registered Owner*" means, with respect to a Bond, the person in whose name that Bond is registered on the Bond Register. For so long as the City utilizes the book-entry only system for the Bonds under the Letter of Representations, Registered Owner shall mean the Securities Depository.

(bb) "*Rule 15c2-12*" means Rule 15c2-12 promulgated by the SEC under the Securities Exchange Act of 1934, as amended.

(cc) "*SEC*" means the United States Securities and Exchange Commission.

(dd) "*Sale Terms*" means the terms and conditions for the sale of a Series of the Bonds including the amount, date or dates, denominations, interest rate or rates (or mechanism for determining interest rate or rates), payment dates, final maturity, redemption rights, price, and other terms or covenants.

(ee) "*Securities Depository*" means DTC, any successor thereto, any substitute securities depository selected by the City that is qualified under applicable laws and regulations to provide the services proposed to be provided by it, or the nominee of any of the foregoing.

(ff) "*Series of the Bonds*" or "*Series*" means a series of the Bonds issued pursuant to this ordinance.

(gg) "*State*" means the State of Washington.

(hh) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 1732 of the City.

(ii) “*Term Bond*” means each Bond designated as a Term Bond and subject to mandatory redemption in the years and amounts set forth in the Bond Purchase Agreement.

(jj) “*Undertaking*” means the undertaking to provide continuing disclosure entered into pursuant to Section 15 of this ordinance.

Section 2. Findings and Determinations. The City takes note of the following facts and makes the following findings and determinations:

(a) *Authority and Description of Projects.* In accordance with RCW 35.23.440 and other applicable law, the City is authorized to undertake the Projects, consisting of capital improvements that will widen Tremont Avenue and make certain related public infrastructure improvements, using a combination of federal, state, regional and local contributions; and the payment of the City’s share of the capital cost of undergrounding utility infrastructure and other capital projects in various parts of the City. The City is in need of borrowing funds to make the local contribution to or pay its share of the Projects. The City Council therefore finds that it is in the best interests of the City to issue the bonds authorized herein in order to carry out the Projects.

(b) *Plan of Financing.* Pursuant to applicable law, including without limitation chapters 35.37, 39.36, 39.44, 39.46 RCW, the City is authorized to issue general obligation bonds for the purpose of financing the Projects, which is a municipal purpose. The total expected cost of the Projects is approximately \$18 million, which is expected to be made up of proceeds of the Bonds and other available money of the City, and approximately \$11.7 million in state and federal loans and grants.

(c) *Debt Capacity.* The maximum amount of indebtedness authorized by this ordinance is \$6,000,000. Based on the following facts, as of the date of this ordinance, the amount authorized herein is to be issued within the amount permitted to be issued by the City for general municipal purposes without a vote:

- (1) The assessed valuation of the taxable property within the City as ascertained by the last preceding assessment for City purposes (i.e., the assessed valuation for property taxes collected in the calendar year 2017) is \$1,532,610,083.
- (2) The City has limited tax general obligation indebtedness, consisting of bonds and state loans outstanding in the principal amount of \$1,575,264, which is incurred within the limit of up to 1½% of the value of the taxable property within the City permitted for general municipal purposes without a vote.
- (3) The City has no voter-approved unlimited tax general obligation indebtedness outstanding for general municipal purposes; for City-owned water, artificial light, and sewers; or for acquiring or developing open space, park facilities, and capital facilities associated with economic development.

(d) *The Bonds.* For the purpose of providing the funds necessary to carry out the Projects and to pay the costs of issuance and sale of the Bonds, the City Council finds that it is in the best interests of the City and its taxpayers to issue and sell the Bonds to the Purchaser, pursuant to the terms set forth in the Bond Purchase Agreement as approved by the City's Designated Representative consistent with this ordinance.

Section 3. Authorization of Bonds. The City is authorized to borrow money on the credit of the City and issue negotiable limited tax general obligation bonds evidencing indebtedness in one or more Series in aggregate principal amount not to exceed \$6,000,000 to provide funds necessary to carry out the Projects and to pay the costs of issuance and sale of the Bonds (including, without limitation, the costs of a bond insurance premium or other credit enhancement, if any). The proceeds of the Bonds allocated to paying the cost of the Projects shall be deposited as set forth in Section 8 of this ordinance and shall be used to carry out the Projects, or a portion of the Projects, in such order of time as the City determines is advisable and practicable.

Section 4. Description of Bonds; Appointment of Designated Representative. The Finance Officer and the Mayor are each independently appointed and authorized to act as the Designated Representative of the City for purposes of this ordinance, to conduct the sale of the Bonds in the manner and upon the terms deemed most advantageous to the City, and to approve the Sale Terms of each Series of the Bonds, with such additional terms and covenants as the Designated Representative deems advisable, within the parameters set forth in Exhibit A, which is attached to this ordinance and incorporated by this reference.

Section 5. Bond Registrar; Registration and Transfer of Bonds.

(a) *Registration of Bonds.* Each Bond shall be issued only in registered form as to both principal and interest and the ownership of each Bond shall be recorded on the Bond Register.

(b) *Bond Registrar; Duties.* Unless otherwise determined by the Finance Officer in the Bond Purchase Agreement, the Fiscal Agent shall be appointed as initial 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 the System of Registration. The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on each Bond. The Bond Registrar may become an Owner 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 Owners.

(c) *Bond Register; Transfer and Exchange.* The Bond Register shall contain the name and mailing address of each Registered Owner and the principal amount and number of each Bond held by each Registered Owner. A Bond surrendered to the Bond Registrar may be exchanged for a Bond or Bonds in any Authorized Denomination of an equal aggregate principal amount and of

the same Series, interest rate and maturity. A Bond 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 any Bond or transfer registered ownership during the period between the applicable Record Date and the next upcoming interest payment or redemption date.

(d) *Securities Depository; Book-Entry Only Form.* The Designated Representative may appoint a Securities Depository for the Bonds, in accordance with the Sale Terms and the Bond Purchase Agreement. If a Bond is to be issued in book-entry form, DTC shall be appointed as initial Securities Depository and each such Bond initially shall be registered in the name of Cede & Co., as the nominee of DTC. Each Bond registered in the name of the Securities Depository shall be held fully immobilized in book-entry only form by the Securities Depository in accordance with the provisions of the Letter of Representations. Registered ownership of any Bond registered in the name of the Securities Depository may not be transferred except: (i) to any successor Securities Depository; (ii) to any substitute Securities Depository appointed by the City; or (iii) to any person if the Bond is no longer to be held in book-entry only form. Upon the resignation of the Securities Depository, or upon a termination of the services of the Securities Depository by the City, the City may appoint a substitute Securities Depository. If the Securities Depository resigns and the City does not appoint a substitute Securities Depository, or if the City otherwise determines not to use the services of the Securities Depository, the Bonds no longer shall be held in book-entry only form and the registered ownership of each Bond may be transferred to any person as provided in this ordinance. Neither the City nor the Bond Registrar shall have any obligation to participants of any Securities Depository or the persons for whom they act as nominees regarding accuracy of any records maintained by the Securities Depository or its participants. Neither the City nor the Bond Registrar shall be responsible for any notice that is permitted or required to be given to a Registered Owner except such notice as is required to be given by the Bond Registrar to the Securities Depository.

(e) *DTC Eligibility.* To induce DTC to accept bonds issued by the City as eligible for deposit at DTC, the City approves the form of DTC's Blanket Issuer Letter of Representations (as it may be amended from time to time, the "Letter of Representations"), a copy of which is on file with the Finance Officer, and authorizes the Designated Representative to execute the Letter of Representations and to take all other acts necessary to ensure that the City's bonds are DTC eligible.

Section 6. Form and Execution of Bonds.

(a) *Form of Bonds; Signatures and Seal.* Each Bond shall be prepared in a form consistent with the provisions of this ordinance and State law. Each Bond shall be signed by the Mayor and the 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. If any officer whose manual or facsimile signature appears on a Bond ceases to be an officer of the City authorized to sign bonds before the Bond bearing his or her manual or facsimile signature is authenticated by the Bond Registrar, or issued or delivered by the City, that Bond 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 its Issue Date.

(b) *Authentication.* Only a Bond bearing a Certificate of Authentication in substantially 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 Port Orchard, Washington, Limited Tax General Obligation Bonds, 2017, described in the Bond Ordinance." 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.

Section 7. Payment of Bonds. Principal of and interest on each Bond shall be payable in lawful money of the United States of America. Principal of and interest on each Bond registered in the name of the Securities Depository is payable in the manner set forth in the Letter of Representations. Interest on each Bond not registered in the name of the Securities Depository is payable by electronic transfer on the interest payment date, or by check or draft of the Bond Registrar mailed on the interest payment date to the Registered Owner at the address appearing on the Bond Register on the Record Date. However, the City is not required to make electronic transfers except pursuant to a request by a Registered Owner in writing received on or prior to the Record Date and at the sole expense of the Registered Owner, unless otherwise specified in the Bond Sale Terms. Principal of each Bond not registered in the name of the Securities Depository is payable upon presentation and surrender of the Bond by the Registered Owner to the Bond Registrar. The Bonds are not subject to acceleration under any circumstances.

Section 8. Funds and Accounts; Deposit of Proceeds.

(a) *Bond Fund.* The Bond Fund has been previously created as a special fund of the City for the sole purpose of paying principal of and interest on the Bonds and other general obligation bonds of the City. The principal of and interest on the Bonds shall be paid out of the Bond Fund. All amounts allocated to the payment of the principal of and interest on the Bonds shall be deposited in the Bond Fund as necessary for the timely payment of amounts due with respect to the Bonds. Until needed to pay principal of and interest on the Bonds, the City may invest money in the Bond Fund temporarily in any legal investment. Any investment earnings shall be retained in the Bond Fund and used for the purposes of that fund. Bond proceeds in excess of the amounts needed to pay the costs of the Projects and the costs of issuance, if any, shall be deposited into the Bond Fund.

(b) *Project Fund.* The Finance Officer shall designate one or more Project Funds to be used for the purposes of paying the costs of the Projects. Proceeds received from the sale and delivery of the Bonds shall be deposited into the Project Fund and used to pay the costs of the Projects and costs of issuance of the Bonds. Until needed to pay such costs, the City may invest those proceeds temporarily in any legal investment, and the investment earnings shall be retained in the Project Fund and used for the purposes of that fund, except that earnings subject to a federal tax or rebate requirement (if applicable) may be withdrawn from the Project Fund and used for those tax or rebate purposes.

Section 9. Redemption Provisions and Purchase of Bonds.

(a) *Optional Redemption.* The Bonds shall be subject to redemption at the option of the City on terms acceptable to the Designated Representative, as set forth in the Bond Purchase Agreement, consistent with the parameters set forth in Exhibit A.

(b) *Mandatory Redemption.* Each Bond that is designated as a Term Bond in the Bond Purchase Agreement shall be called for redemption at a price equal to the stated principal amount to be redeemed, plus accrued interest, on the dates and in the amounts as set forth in the Bond Purchase Agreement. If a Term Bond is redeemed under the optional redemption provisions, defeased or purchased by the City and surrendered for cancellation, the principal amount of the Term Bond so redeemed, defeased or purchased (irrespective of its actual redemption or purchase price) shall be credited against one or more scheduled mandatory redemption installments for that Term Bond. The City shall determine the manner in which the credit is to be allocated and shall notify the Bond Registrar in writing of its allocation prior to the earliest mandatory redemption date for that Term Bond for which notice of redemption has not already been given.

(c) *Selection of Bonds for Redemption; Partial Redemption.* If fewer than all of the outstanding Bonds are to be redeemed at the option of the City, the City shall select the Series and maturities to be redeemed. If fewer than all of the outstanding Bonds of a maturity of a Series are to be redeemed, the Securities Depository shall select Bonds registered in the name of the Securities Depository to be redeemed in accordance with the Letter of Representations, and the Bond Registrar shall select all other Bonds to be redeemed randomly in such manner as the Bond Registrar shall determine. All or a portion of the principal amount of any Bond that is to be redeemed may be redeemed in any Authorized Denomination. If less than all of the outstanding 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, a new Bond (or Bonds, at the option of the Registered Owner) of the same Series, maturity and interest rate in any Authorized Denomination in the aggregate principal amount to remain outstanding.

(d) *Notice of Redemption.* Notice of redemption of each Bond registered in the name of the Securities Depository shall be given in accordance with the Letter of Representations. Notice of redemption of each other Bond, unless waived by the Registered Owner, shall be given by the Bond Registrar not less than 20 nor more than 60 days prior to the date fixed for redemption by first-class mail, postage prepaid, to the Registered Owner at the address appearing on the Bond Register on the Record Date. The requirements of the preceding sentence shall be satisfied when notice has been mailed as so provided, whether or not it is actually received by an Owner. In addition, the redemption notice shall be mailed or sent electronically within the same period to the MSRB (if required), to each Rating Agency, and to such other persons and with such additional information as the Finance Officer shall determine, but these additional mailings shall not be a condition precedent to the redemption of any Bond.

(e) *Rescission of Optional Redemption Notice.* In the case of an optional redemption, the notice of redemption may state that the City retains the right to rescind the redemption notice and the redemption by giving a notice of rescission to the affected Registered Owners at any time prior to the scheduled optional redemption date. Any notice of optional redemption that is so

rescinded shall be of no effect, and each Bond for which a notice of optional redemption has been rescinded shall remain outstanding.

(f) *Effect of Redemption.* Interest on each Bond called for redemption shall cease to accrue on the date fixed for redemption, unless either the notice of optional redemption is rescinded as set forth above, or money sufficient to effect such redemption is not on deposit in the Bond Fund or in a trust account established to refund or defease the Bond.

(g) *Purchase of Bonds.* The City reserves the right to purchase any or all of the Bonds offered to the City at any time at any price acceptable to the City plus accrued interest to the date of purchase.

Section 10. Failure To Pay Bonds. If the principal of any Bond is not paid when the Bond is properly presented at its maturity or date fixed for redemption, 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 date fixed for redemption 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 Fund, or in a trust account established to refund or defease the Bond, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 11. Pledge of Taxes. The Bonds constitute a general indebtedness of the City and are payable from tax revenues of the City and such other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Bonds. For as long as any of the Bonds are outstanding, the City irrevocably pledges that it shall, in the manner provided by law within the constitutional and statutory limitations provided by law without the assent of the voters, include in its annual property tax levy amounts sufficient, together with other money that is lawfully available, to pay principal of and interest on the Bonds as the same become due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of and interest on the Bonds and such pledge shall be enforceable in mandamus against the City.

Section 12. Tax Covenants; Designation of Bonds as "Qualified Tax Exempt Obligations."

(a) *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 that will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the Code are applicable to the Bonds, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Bonds.

(b) *Post-Issuance Compliance.* The Finance Officer is authorized to approve and implement the City's written procedures to facilitate compliance by the City with the covenants in this ordinance, the continuing disclosure undertaking (if any), and the applicable requirements of

the Code that must be satisfied after the Issue Date to prevent interest on the Bonds from being included in gross income for federal tax purposes.

(c) *Designation of Bonds as "Qualified Tax-Exempt Obligations."* The Designated Representative may designate the Bonds as "qualified tax-exempt obligations" for the purposes of Section 265(b)(3) of the Code, if the following conditions are met:

- (1) the Series does not constitute "private activity bonds" within the meaning of Section 141 of the Code;
- (2) the reasonably anticipated amount of tax-exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) that the City and any entity 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) will issue during the calendar year in which the Series is issued will not exceed \$10,000,000; and
- (3) the amount of tax-exempt obligations, including the Series, 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 Series is issued does not exceed \$10,000,000.

Section 13. Refunding or Defeasance of the Bonds. The City may issue refunding bonds pursuant to State law or use money available from any other lawful source to carry out a refunding or defeasance plan, which may include (a) paying when due the principal of and interest on any or all of the Bonds (the "defeased Bonds"); (b) redeeming the defeased Bonds prior to their maturity; and (c) paying the costs of the refunding or defeasance. If the City sets aside in a special trust fund or escrow account irrevocably pledged to that redemption or defeasance (the "trust account"), money and/or Government Obligations maturing at a time or times and bearing interest in amounts sufficient to redeem, refund or defease the defeased Bonds in accordance with their terms, 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. Thereafter, the Owners of defeased Bonds shall have the right to receive payment of the principal of and interest on the defeased Bonds solely from the trust account and the defeased Bonds shall be deemed no longer outstanding. In that event, the City may apply money remaining in any fund or account (other than the trust account) established for the payment or redemption of the defeased Bonds to any lawful purpose.

Unless otherwise specified by the City in a refunding or defeasance plan, notice of refunding or defeasance shall be given, and selection of Bonds for any partial refunding or defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of Bonds.

Section 14. Sale and Delivery of the Bonds.

(a) *Manner of Sale of Bonds; Delivery of Bonds.* The Designated Representative is authorized to sell each Series of the Bonds by negotiated sale or private placement, based on the

assessment of the Designated Representative of market conditions, in consultation with appropriate City officials and staff, Bond Counsel and other advisors. In determining the method of sale of a Series and accepting the Sale Terms, the Designated Representative shall take into account those factors that, in the judgment of the Designated Representative, may be expected to result in the lowest true interest cost to the City.

(b) *Procedure for Negotiated Sale or Private Placement.* If the Designated Representative determines that a Series of the Bonds is to be sold by negotiated sale or private placement, the Designated Representative shall select one or more Purchasers with which to negotiate such sale. The Bond Purchase Agreement for each Series of the Bonds shall set forth the Sale Terms. The Designated Representative is authorized to execute the Bond Purchase Agreement on behalf of the City, so long as the terms provided therein are consistent with the terms of this ordinance.

(c) *Preparation, Execution and Delivery of the Bonds.* The Bonds will be prepared at City expense and will be delivered to the Purchaser in accordance with the Bond Purchase Agreement, together with the approving legal opinion of Bond Counsel regarding the Bonds.

Section 15. Official Statement; Continuing Disclosure.

(a) *Preliminary Official Statement Deemed Final.* The Designated Representative shall review and, if acceptable to him or her, approve the preliminary Official Statement prepared in connection with each sale of a Series of the Bonds to the public or through a Purchaser as a placement agent. For the sole purpose of the Purchaser's compliance with paragraph (b)(1) of Rule 15c2-12, if applicable, the Designated Representative is authorized to deem that preliminary Official Statement final as of its date, except for the omission of information permitted to be omitted by Rule 15c2-12. The City approves the distribution to potential purchasers of the Bonds of a preliminary Official Statement that has approved by the Designated Representative and been deemed final, if applicable, in accordance with this subsection.

(b) *Approval of Final Official Statement.* The City approves the preparation of a final Official Statement for each Series of the Bonds to be sold to the public in the form of the preliminary Official Statement that has been approved and deemed final in accordance with subsection (a), with such modifications and amendments as the Designated Representative deems necessary or desirable, and further independently authorizes each of the Designated Representative and the Mayor to execute and deliver such final Official Statement to the Purchaser if required under Rule 15c2-12. The City authorizes and approves the distribution by the Purchaser of the final Official Statement so executed and delivered to purchasers and potential purchasers of a Series of the Bonds.

(c) *Undertaking to Provide Continuing Disclosure.* If necessary to meet the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to the Purchaser acting as a participating underwriter for a Series of the Bonds, the Designated Representative is authorized to execute a written undertaking to provide continuing disclosure for the benefit of holders of a Series of the Bonds in substantially the form attached as Exhibit B.

Section 16. Supplemental and Amendatory Ordinances. The City may supplement or amend this ordinance for any one or more of the following purposes without the consent of any Owners of the Bonds:

(a) To add covenants and agreements that do not materially adversely affect the interests of Owners, or to surrender any right or power reserved to or conferred upon the City.

(b) To cure any ambiguities, or to cure, correct or supplement any defective provision contained in this ordinance in a manner that does not materially adversely affect the interest of the Beneficial Owners of the Bonds.

Section 17. General Authorization and Ratification. The Mayor, the Designated Representative and other appropriate officers of the City are severally authorized to take such actions and to execute such documents as in their judgment may be necessary or desirable to carry out the transactions contemplated in connection with this ordinance, and to do everything necessary for the prompt delivery of each Series of the Bonds to the Purchaser thereof and for the proper application, use and investment of the proceeds of the Bonds. All actions taken prior to the effective date of this ordinance in furtherance of the purposes described in this ordinance and not inconsistent with the terms of this ordinance are ratified and confirmed in all respects.

Section 18. Severability. The provisions of this ordinance are declared to be separate and severable. If a court of competent jurisdiction, all appeals having been exhausted or all appeal periods having run, finds any provision of this ordinance to be invalid or unenforceable as to any person or circumstance, such offending provision shall, if feasible, be deemed to be modified to be within the limits of enforceability or validity. However, if the offending provision cannot be so modified, it shall be null and void with respect to the particular person or circumstance, and all other provisions of this ordinance in all other respects, and the offending provision with respect to all other persons and all other circumstances, shall remain valid and enforceable.

Section 19. 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 of the City of Port Orchard, Washington, at an open public meeting thereof, this 27th day of June, 2017.



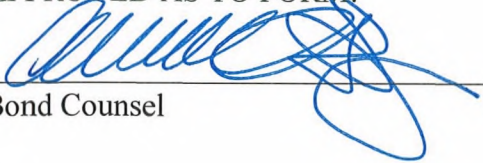
Mayor

ATTEST:



City Clerk

APPROVED AS TO FORM:



Bond Counsel



EXHIBIT A
DESCRIPTION OF THE BONDS

- (a) Principal Amount. The Bonds may be issued in one or more Series and shall not exceed the aggregate principal amount of \$6,000,000.
- (b) Date or Dates. Each Bond shall be dated its Issue Date, which date may not be later than one year after the effective date of this ordinance.
- (c) Denominations, Name, etc. The Bonds shall be issued in Authorized Denominations and shall be numbered separately in the manner and shall bear any name and additional designation as deemed necessary or appropriate by the Designated Representative.
- (d) Interest Rate(s). Unless otherwise provided for in connection with a private placement of the Bonds, each Bond shall bear interest at a fixed rate per annum (computed on the basis of a 360-day year of twelve 30-day months) from the Issue Date or from the most recent date for which interest has been paid or duly provided for, whichever is later. One or more rates of interest may be fixed for the Bonds such that the true interest cost to the City for each Series of the Bonds does not exceed 4.50%.
- (e) Payment Dates. Unless otherwise provided for in connection with a private placement of the Bonds, interest shall be payable semiannually on dates acceptable to the Designated Representative, and principal payments shall commence on a date acceptable to the Designated Representative and shall be payable at maturity or in mandatory redemption installments on dates acceptable to the Designated Representative.
- (f) Final Maturity. The final maturity of any Series of the Bonds shall be no later than December 1, 2037.
- (g) Redemption Rights. The Designated Representative may approve in the Bond Purchase Agreement provisions for the optional and mandatory redemption of Bonds, subject to the following:
- (1) Optional Redemption. Any Bond may be designated as being (A) subject to redemption at the option of the City prior to its maturity date on the dates and at the prices set forth in the Bond Purchase Agreement; or (B) not subject to redemption prior

to its maturity date. If a Bond is subject to optional redemption prior to its maturity, it must be subject to such redemption on one or more dates occurring not more than 10½ years after the Issue Date.

- (2) Mandatory Redemption. Any Bond may be designated as a Term Bond, subject to mandatory redemption prior to its maturity on the dates and in the amounts set forth in the Bond Purchase Agreement.

(h) Price.

The purchase price for each Series of the Bonds may not be less than 98% or more than 130% of the stated principal amount of that Series.

(i) Other Terms and Conditions.

- (1) A Series of the Bonds may not be issued if it would cause the indebtedness of the City to exceed the City's legal debt capacity on the Issue Date.
- (2) The Designated Representative may determine whether it is in the City's best interest to provide for bond insurance or other credit enhancement; and may accept such additional terms, conditions and covenants as he or she may determine are in the best interests of the City, consistent with this ordinance.

**Form of
UNDERTAKING TO PROVIDE CONTINUING DISCLOSURE**

**City of Port Orchard, Washington
Limited Tax General Obligation Bonds, 2017**

The City of Port Orchard, Washington (the “City”), makes the following written Undertaking for the benefit of holders of the above-referenced bonds (the “Bonds”), for the sole purpose of assisting the Purchaser in meeting the requirements of paragraph (b)(5) of Rule 15c2-12, as applicable to a participating underwriter for the Bonds. Capitalized terms used but not defined below shall have the meanings given in Ordinance No. ____ of the City (the “Bond Ordinance”).

(a) Undertaking to Provide Annual Financial Information and Notice of Listed Events. The City undertakes to provide or cause to be provided, either directly or through a designated agent, to the MSRB, in an electronic format as prescribed by the MSRB, accompanied by identifying information as prescribed by the MSRB:

- (i) Annual financial information and operating data of the type included in the final official statement for the Bonds and described in paragraph (b) (“annual financial information”). The timely filing of unaudited financial statements shall satisfy the requirements and filing deadlines pertaining to the filing of annual financial statements under subsection (b), provided that audited financial statements are to be filed if and when they are otherwise prepared and available to the City;
- (ii) Timely notice (not in excess of 10 business days after the occurrence of the event) of the occurrence of any of the following events with respect to the Bonds: (1) principal and interest payment delinquencies; (2) non-payment related defaults, if material; (3) unscheduled draws on debt service reserves reflecting financial difficulties; (4) unscheduled draws on credit enhancements reflecting financial difficulties; (5) substitution of credit or liquidity providers, or their failure to perform; (6) adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notice of Proposed Issue (IRS Form 5701 – TEB) or other material notices or determinations with respect to the tax status of the Bonds, or other material events affecting the tax status of the Bonds; (7) modifications to rights of holders of the Bonds, if material; (8) bond calls (other than scheduled mandatory redemptions of Term Bonds), if material, and tender offers; (9) defeasances; (10) release, substitution, or sale of property securing repayment of the Bonds, if material; (11) rating changes; (12) bankruptcy, insolvency, receivership or similar event of the City, as such “Bankruptcy Events” are defined in Rule 15c2-12; (13) the consummation of a merger, consolidation, or acquisition involving the City or the sale of all or substantially all of the assets of the City other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and (14) appointment of a successor or additional trustee or the change of name of a trustee, if material.

- (iii) Timely notice of a failure by the City to provide required annual financial information on or before the date specified in paragraph (b). The City shall not be required to file a notice of failure to file its annual financial statements if it timely files unaudited financial statements and commits to the prompt filing of the audit if and when such audit becomes available.

(b) Type of Annual Financial Information Undertaken to be Provided. The annual financial information that the City undertakes to provide in paragraph (a):

- (i) Shall consist of (1) annual financial statements of the City prepared in accordance with applicable generally accepted accounting principles applicable to governmental units such as the City (and with the exceptions noted therein), as such principles may be changed from time to time and as permitted by State law; (2) principal amount of general obligation bonds outstanding at the end of the applicable fiscal year; (3) assessed valuation for that fiscal year; and (4) property tax levy amounts and rates for that fiscal year;
- (ii) Shall be provided not later than the last day of the ninth month after the end of each fiscal year of the City (currently, a fiscal year ending December 31), as such fiscal year may be changed as required or permitted by State law, commencing with the City's fiscal year ending December 31, 2016; and
- (iii) May be provided in a single or multiple documents, and may be incorporated by specific reference to documents available to the public on the Internet website of the MSRB or filed with the SEC.

(c) Amendment of Undertaking. This Undertaking is subject to amendment after the primary offering of the Bonds without the consent of any Owner or holder of any Bond, or of any broker, dealer, municipal securities dealer, participating underwriter, rating agency or the MSRB, under the circumstances and in the manner permitted by Rule 15c2-12, including:

- (i) The amendment may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature, or status of the City, or type of business conducted;
- (ii) The undertaking, as amended, would have complied with the requirements of the rule at the time of the primary offering, after taking into account any amendments or interpretations of the rule, as well as any change in circumstances; and
- (iii) The amendment does not materially impair the interests of holders, as determined either by parties unaffiliated with the City (e.g., bond counsel or other counsel familiar with federal securities laws), or by approving vote of bondholders pursuant to the terms of the Bond Ordinance at the time of the amendment.

(d) Beneficiaries. This Undertaking shall inure to the benefit of the City and the holder of each Bond, and shall not inure to the benefit of or create any rights in any other person.

(e) Termination of Undertaking. The City's obligations under this Undertaking shall terminate upon the legal defeasance of all of the Bonds. In addition, the City's obligations under this Undertaking shall terminate if the provisions of Rule 15c2-12 that require the City to comply with this Undertaking become legally inapplicable in respect of the Bonds for any reason, as confirmed by an opinion of Bond Counsel delivered to the City, and the City provides timely notice of such termination to the MSRB.

(f) Remedy for Failure to Comply with Undertaking. As soon as practicable after the City learns of any failure to comply with this Undertaking, the City will proceed with due diligence to cause such noncompliance to be corrected. No failure by the City or other obligated person to comply with this Undertaking shall constitute a default in respect of the Bonds. The sole remedy of any holder of a Bond shall be to take action to compel the City or other obligated person to comply with this Undertaking, including seeking an order of specific performance from an appropriate court.

(g) Designation of Official Responsible to Administer Undertaking. The Finance Officer or his or her designee is the person designated, in accordance with the Bond Ordinance, to carry out the Undertaking in accordance with Rule 15c2-12, including, without limitation, the following actions:

- (i) Preparing and filing the annual financial information undertaken to be provided;
- (ii) Determining whether any event specified in paragraph (a) has occurred, assessing its materiality, where necessary, with respect to the Bonds, and preparing and disseminating any required notice of its occurrence;
- (iii) Determining whether any person other than the City is an "obligated person" within the meaning of Rule 15c2-12 with respect to the Bonds, and obtaining from such person an undertaking to provide any annual financial information and notice of listed events for that person required under Rule 15c2-12;
- (iv) Selecting, engaging and compensating designated agents and consultants, including financial advisors and legal counsel, to assist and advise the City in carrying out this Undertaking; and
- (v) Effecting any necessary amendment of this Undertaking.

CERTIFICATION

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

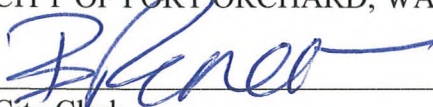
1. The attached copy of Ordinance No. 021-17 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on June 27, 2017, as that ordinance appears on the minute book of the City.

2. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date is July 7, 2017.

3. A quorum of the members of the City Council was present throughout the meeting and at least four of the members of the Council voted in the proper manner for the passage of the Ordinance.

Dated: June 27, 2017.

CITY OF PORT ORCHARD, WASHINGTON



City Clerk



**NOTICE OF CITY OF PORT ORCHARD
ORDINANCE**

The following is a summary of an Ordinance approved by the Port Orchard City Council at their regular Council meeting held June 27, 2017.

ORDINANCE NO. 021-17

AN ORDINANCE OF THE CITY OF PORT ORCHARD, WASHINGTON, RELATING TO CONTRACTING INDEBTEDNESS; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF NOT TO EXCEED \$6,000,000 AGGREGATE PRINCIPAL AMOUNT OF LIMITED TAX GENERAL OBLIGATION BONDS TO PROVIDE FUNDS (I) TO PAY FOR A PORTION OF THE TREMONT WIDENING PROJECT, INCLUDING MAKING CERTAIN IMPROVEMENTS TO TREMONT STREET AND RELATED PUBLIC INFRASTRUCTURE, (II) TO PAY FOR THE CITY'S SHARE OF COSTS OF VARIOUS UTILITY UNDERGROUNDING PROJECTS AND OTHER CAPITAL PROJECTS, AND (III) TO PAY THE COSTS OF ISSUANCE AND SALE OF THE BONDS; FIXING OR SETTING PARAMETERS WITH RESPECT TO CERTAIN TERMS AND COVENANTS OF THE BONDS; APPOINTING THE CITY'S DESIGNATED REPRESENTATIVE TO APPROVE THE FINAL TERMS OF THE SALE OF THE BONDS; AND PROVIDING FOR OTHER RELATED MATTERS.

Copies of Ordinance No. 021-17 are available for review at the office of the City Clerk of the City of Port Orchard. Upon written request a statement of the full text of the Ordinance will be mailed to any interested person without charge. Thirty days after publication, copies of Ordinance No. 021-17 will be provided at a nominal charge.

City of Port Orchard

Brandy Rinearson
City Clerk

Published: Friday, July 7, 2017