

CITY OF TENINO, WASHINGTON

ORDINANCE NO. 918

AN ORDINANCE of the City of Tenino, Washington, providing for the issuance and sale of a limited tax general obligation bond in the principal amount of not to exceed \$1,750,000 to be used to finance a building in the Agricultural Business & Innovation Park; fixing or setting parameters with respect to certain terms and covenants of the bond; and providing for other related matters.

THE CITY COUNCIL OF THE CITY OF TENINO, WASHINGTON, DO ORDAIN AS FOLLOWS:

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

(a) “*Authorized Officer*” means the Mayor, Clerk-Treasurer or their appointed designee.

(b) “*Bond*” means the “City of Tenino, Washington Limited Tax General Obligation Bond, 2021 (Taxable)” authorized by this ordinance.

(c) “*Bond Fund*” means the debt service fund of the City created for the payment of the principal of and interest on the Bond.

(d) “*Bond Register*” means the registration records for the Bond maintained by the Bond Registrar.

(e) “*Bond Registrar*” means the City Clerk-Treasurer, whose duties include registering and authenticating the Bond, maintaining the Bond Register, transferring ownership of the Bond, and paying the principal of and interest on the Bond.

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

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

(h) “*Date of Delivery*” means the date of the delivery of the Bond to the Purchaser.

(i) “*Outstanding Principal Balance of the Bond*” means the aggregate of all funds that the City has drawn from the Purchaser pursuant to the Bond less the aggregate of all principal payments on the Bond made by the City.

(j) “*Project*” means the financing of a building in the Agricultural Business & Innovation Park, which may include site preparation and other project-related costs, and other capital improvements approved by the Council.

(k) “*Project Fund*” means the fund or account designated or created by the City for the purposes of carrying out the Project.

(l) “*Purchaser*” means North Cascades Bank, a division of Glacier Bank, Chelan, Washington, or its successors or assigns.

(m) “*Purchaser Offer*” means the offer presented by the Purchaser to purchase the Bond.

(n) “*Request for Draw*” means a written request by an Authorized Officer for a draw from the Bond for a purpose that has been approved by the City Council as provided in Section 3.

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 the Project.* The City is in need of financing the Project and other project-related costs, and other capital improvements. The City Council therefore finds that it is in the best interests of the City to carry out the Project.

(b) *Plan of Financing.* Pursuant to applicable law, including without limitation chapters 35.37, 39.36, 39.44, 39.46 and 39.52 RCW, the City is authorized to issue general obligation bonds for the purpose of financing the Project. The total expected cost of the Project is approximately \$4,000,000 which is expected to be made up of proceeds of the Bond, state grants, and other available money of the City.

(c) *Debt Capacity.* The maximum amount of indebtedness authorized by this ordinance is \$1,750,000. Based on the following facts, this amount 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 for collection in the calendar year 2021 is \$151,933,687.

(2) As of December 31, 2020, the City had \$65,322 in limited tax general obligation indebtedness, 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 unlimited tax general obligation indebtedness outstanding.

(d) *The Bond.* For the purpose of providing the funds necessary to carry out the Project and to pay the costs of issuance and sale of the Bond, the City Council finds that it is in the best interests of the City and its taxpayers to issue the Bond consistent with this ordinance.

Section 3. Authorization of the Bond. The City is authorized to borrow money on the credit of the City and issue a taxable limited tax general obligation bond evidencing indebtedness in the principal amount of not to exceed \$1,750,000 to provide funds necessary to finance the Project and to pay the costs of issuance and sale of the Bond.

Section 4. Description of the Bond. The Bond shall be issued as a single bond designated as the City of Tenino, Washington, Limited Tax General Obligation Bond, 2021 (Taxable); shall be in the principal amount of not to exceed \$1,750,000; shall be dated the Date of Delivery; shall be numbered R-1; shall be issued only in fully registered form; and shall mature on December 1, 2042 (the “Maturity Date”).

Each draw pursuant to a Request for Draw on the Bond shall bear interest at the rate of 3.15% per annum. Interest on the Bond shall accrue from the date money is drawn, pursuant to a Request for Draw, until paid and shall be computed on the principal amount outstanding on the basis of a 360-day year consisting of 12 30-day months. The Outstanding Principal Balance of the Bond shall not exceed \$1,750,000.

Interest on the Bond shall be repaid in semiannual installments on each June 1 and December 1, beginning December 1, 2021, to and including the Maturity Date. Principal of the Bond shall be repaid in annual installments on each December 1, beginning December 1, 2023, with the remaining Outstanding Principal Balance of the Bond due on the Maturity Date. The Outstanding Principal Balance of the Bond on any particular day shall be the aggregate of all funds which the City has drawn from the date of the Bond to that day less the aggregate of all principal payments made by the City on or before that day.

A Request for Draw may be made on any business day through and including December 1, 2022 (the “Draw Period”) by an Authorized Officer in writing. The Purchaser requires two-day advance notice of any Request for Draw. The City hereby delegates to the Authorized Officers authority to make a written Request for Draw pursuant to this ordinance. The Purchaser shall incur no liability to the City or to any other person in acting upon any written communication which the Purchaser believes in good faith to have been given by an official authorized to borrow on behalf of the City, or otherwise acting in good faith in making advances pursuant to this ordinance. Bond proceeds shall be deposited into the appropriate City account determined by an Authorized Officer.

Section 5. Bond Registrar; Registration and Transfer of the Bond. Pursuant to RCW 39.46.030(4) the City’s Clerk-Treasurer shall serve as initial fiscal agent for the City (the “Bond Registrar”) with respect to the Bond and is authorized, on behalf of the City, to authenticate and deliver the Bond in accordance with the provisions of the Bond and this ordinance. The Bond 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 the Bond.

Upon a determination by the City Clerk-Treasurer that maintenance of the duties of the Bond Registrar is no longer convenient, the fiscal agent of the State of Washington shall act as Bond Registrar.

The Bond Registrar shall keep, or cause to be kept, at its office, sufficient books for the registration, assignment or transfer of the Bond, which books 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 the Bond transferred or exchanged in accordance with the provisions of the Bond and this ordinance, to serve as the City's paying agent for the Bond and to carry out all of the Bond Registrar's powers and duties under this ordinance.

The Bond Registrar shall be responsible for its representations contained in the Bond Registrar's Certificate of Authentication on the Bond.

The Bond may be assigned or transferred only in whole by the Purchaser to a single investor that is a financial institution or an entity reasonably believed to be a qualified institutional buyer within the meaning of the applicable federal securities laws. Any transfer shall be without cost to the owner or transferee, except for governmental charges imposed on any such transfer or exchange. The Bond Registrar shall not be obligated to exchange or transfer the Bond during the 15 days preceding any payment or prepayment date. When the Bond has been paid in full, both principal and interest, the Bond shall be surrendered to the Bond Registrar, who shall cancel the Bond.

Section 6. Form and Execution of the Bond.

(a) *Form of the Bond; Signatures and Seal.* The Bond shall be prepared in a form consistent with the provisions of this ordinance and Washington law. The Bond shall be signed by the Mayor and the City Clerk-Treasurer, 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 the 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, the 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. The 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 Date of Delivery.

(b) *Authentication.* Only the 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 the fully registered City of Tenino, Washington, Limited Tax General Obligation Bond, 2021 (Taxable), 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 the Bond. Both principal of and interest on the Bond shall be payable in lawful money of the United States of America and shall be paid by electronic transfer, unless payment by check or draft of the Bond Registrar is permitted by the Purchaser, and sent to

the Purchaser so that the Purchaser receives the payments when due at the address appearing on the Bond Register. The Bond is not subject to acceleration under any circumstances.

Upon receipt of the final payment of principal of and interest on the Bond, whether at maturity or upon prepayment, the Purchaser shall present and surrender the Bond to the Bond Registrar to be destroyed or cancelled in accordance with law. The City and the Bond Registrar may deem and treat the Purchaser as the absolute owner of the Bond for the purpose of receiving payment of principal and interest and for all other purposes, and neither the City nor the Bond Registrar shall be affected by any notice to the contrary other than proper notice of assignment or transfer.

Section 8. Funds and Accounts; Deposit of Bond Proceeds.

(a) *Bond Fund.* The Bond Fund of the City is created for the sole purpose of paying principal of and interest on the Bond. All amounts allocated to the payment of the principal of and interest on the Bond shall be accounted for separately and shall be deposited in the Bond Fund as necessary for the timely payment of amounts due with respect to the Bond. The principal of and interest on the Bond shall be paid out of the Bond Fund. Until needed for that purpose, the City may invest money in the Bond Fund temporarily in any legal investment, and the investment earnings shall be retained in the Bond Fund and used for the purposes of that fund.

(b) *Project Fund.* The Project Fund is a fund of the City to be used to pay the costs of the Project. Proceeds received from the sale and delivery of the Bond shall be deposited into the Project Fund and used to pay the costs of the Project and costs of issuance of the Bond. 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. Prepayment. The City reserves the right and option to prepay and redeem the Bond in advance of its maturity on any business day all or a portion of the principal amount of the Bond outstanding at par plus accrued interest to the date of prepayment and redemption. Interest on the Bond or the portion thereof so prepaid shall cease to accrue on the date of such prepayment. The City will provide the Purchaser with written notice of any intended prepayment at least 15 days prior to such prepayment date. Upon any partial prepayment, the remaining payments would be recalculated to represents a reduction in the payment amounts to the Maturity Date.

Section 10. Failure to Pay the Bond. If any payment of the Bond is not paid when due, the City shall be obligated to pay interest on the Bond at the same rate provided in the Bond from and after its maturity or date fixed for prepayment until the 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 Purchaser.

Section 11. Pledge of Taxes. The Bond constitutes a general indebtedness of the City and is payable from tax revenues of the City, lease payments from leasing the Project, and such

other money as is lawfully available and pledged by the City for the payment of principal of and interest on the Bond. For as long as the Bond is 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 Bond 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 Bond and such pledge shall be enforceable in mandamus against the City.

Section 12. Sale and Delivery of the Bond.

(a) *Sale of the Bond.* The Purchaser has presented the Purchaser Offer for the Bond to the City offering to purchase the Bond under the terms and conditions provided therein. The City will pay the Purchaser a fee of \$3,500 for the Bond.

(b) *Preparation, Execution and Delivery of the Bond.* The Bond will be prepared at City expense and will, in accordance with the Purchaser Offer and this ordinance, be delivered to the Purchaser together with the approving legal opinion of Foster Garvey P.C., bond counsel to the City, regarding the Bond.

Section 13. Reporting Requirements. While the Bond is outstanding, the City shall submit to the Purchaser its annual financial reports within 30 days after receipt of such annual financial report from the Washington State Auditor and such additional information as the Purchaser may reasonably request.

Section 14. Default. The following events shall constitute a default under the Bond:

- (a) a failure to pay principal or interest on the Bond when due,
- (b) a failure by the City to comply with any of its obligations, or to perform any of its duties, under this ordinance, which failure continues and is not cured for a period of more than 60 days after the Purchaser has made written demand on the City to cure such failure, or
- (c) a material misrepresentation to the Purchaser by the City in the purchase of the Bond, as reasonably concluded by the Purchaser after investigation and discussion with the City.

Section 15. Governing Law. The Bond shall be governed and interpreted according to the laws of Washington.

Section 16. General Authorization and Ratification. The Mayor, City Clerk-Treasurer 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 the Bond to the Purchaser thereof and for the proper application, use and investment of the proceeds of the Bond. 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 17. 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 18. 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 of the City of Tenino, Washington, and **APPROVED** by its Mayor, at a regularly scheduled open public meeting thereof this 13<sup>th</sup> day of July, 2021.

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Mayor

ATTEST:

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City Clerk-Treasurer

## CERTIFICATION

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

1. The attached copy of Ordinance No. \_\_\_\_\_ (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 July 13, 2021, as that ordinance appears on the minute book of the City.

2. That in accordance with Proclamation 20-28 made by the Governor of the State of Washington on March 24, 2020, as extended, and acts of the legislative leadership of the State of Washington, (a) such meeting was conducted in person, and in addition, (b) one or more options were provided for the public to attend the such meeting remotely, including by telephone access, which mean(s) of access provided the ability for all persons attending the meeting remotely to hear each other at the same time; and

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

4. That all other requirements and proceedings incident to the proper passage of the Ordinance have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this Certificate.

5. The Ordinance will be in full force and effect five days after publication in the City's official newspaper, which publication date is expected to be July 15, 2021.

Dated: July 13, 2021.

CITY OF TENINO, WASHINGTON

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City Clerk-Treasurer