

# ORIGINAL

CITY OF SHORELINE, WASHINGTON

ORDINANCE NO. 670

AN ORDINANCE of the City of Shoreline, Washington, relating to contracting indebtedness; providing for the issuance, sale and delivery of \$3,565,000 aggregate principal amount of a limited tax general obligation bond to provide funds for the acquisition of and improvements to an existing public works maintenance facility; and to pay the costs of issuance and sale of the bond; fixing certain terms and covenants of the bond; and providing for other related matters.

Passed August 12, 2013

*This document prepared by:*

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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.*

# ORIGINAL

## CITY OF SHORELINE, WASHINGTON

### ORDINANCE NO. 670

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, RELATING TO CONTRACTING INDEBTEDNESS; PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF \$3,565,000 AGGREGATE PRINCIPAL AMOUNT OF A LIMITED TAX GENERAL OBLIGATION BOND TO PROVIDE FUNDS FOR THE ACQUISITION OF AND IMPROVEMENTS TO AN EXISTING PUBLIC WORKS MAINTENANCE FACILITY; AND TO PAY THE COSTS OF ISSUANCE AND SALE OF THE BOND; FIXING CERTAIN TERMS AND COVENANTS OF THE BOND; AND PROVIDING FOR OTHER RELATED MATTERS.**

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

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

- (a) “*Bank*” means Capital One Public Funding, LLC, as Purchaser of the Bond.
- (b) “*Bond*” means the bond issued pursuant to and for the purposes provided in this ordinance.
- (c) “*Bond Counsel*” means the firm of Foster Pepper PLLC, 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.
- (d) “*Bond Fund*” means the Limited Tax General Obligation Bond Fund, of the City created for the payment of the principal of, redemption premium, if any, and interest on the Bond.
- (e) “*Bond Register*” means the books or records maintained by the Bond Registrar for the purpose of identifying ownership of the each Bond.
- (f) “*Bond Registrar*” means the Fiscal Agent, or any successor bond registrar selected by the City.
- (g) “*City*” means the City of Shoreline, Washington, a municipal corporation duly organized and existing under the laws of the State.
- (h) “*City Council*” means the legislative authority of the City, as duly and regularly constituted from time to time.

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

(j) “*Finance Officer*” means the Administrative Services Director or such other officer of the City who succeeds to substantially all of the responsibilities of that office.

(k) “*Financial Advisor*” means the firm of Public Financial Management, Inc., or its successor.

(l) “*Fiscal Agent*” means the fiscal agent of the State, currently, the Bank of New York Mellon, as the same may be designated by the State from time to time.

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

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

(o) “*Maturity Date*” means December 1, 2033.

(p) “*Project*” means the acquisition of and improvements to an existing maintenance facility to be used by the City’s Public Works Maintenance Operations, 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. The Project includes acquisition, construction and installation of all necessary furniture, equipment, apparatus, accessories, fixtures and appurtenances. The term “land” includes all real property and all appurtenant improvements, structures and interests therein.

(q) “*Project Fund*” means the fund or account designated or created by the Finance Officer for the purpose of carrying out the Project.

(r) “*Purchase Offer*” means the letter dated July 23, 2013, setting forth certain terms and conditions of the issuance, sale and delivery of the Bond, which offer is accepted by the City pursuant to this ordinance.

(s) “*Purchaser*” means Capital One Public Funding, LLC, of Melville, New York.

(t) “*Record Date*” means the Bond Registrar’s close of business on the 15<sup>th</sup> day of the month preceding an interest payment date. With respect to redemption of the 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.

(u) “*Registered Owner*” means, with respect to the Bond, the person in whose name the Bond is registered on the Bond Register.

(v) “*State*” means the State of Washington.

(w) “*System of Registration*” means the system of registration for the City’s bonds and other obligations set forth in Ordinance No. 453 of the City.

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 Project*. The City is in need of a new maintenance facility to house its Public Works Maintenance Operations. RCW 35A.11.020 authorizes the City to acquire, improve and operate public facilities. 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 39.36, 39.46, 35A.11 and 35A.40 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 \$3,566,119, which is expected to be made up of proceeds of the Bond, and other available money of the City.

(c) *Debt Capacity*. The amount of indebtedness authorized by this ordinance is \$3,565,000. 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 2013 is \$6,052,253,379.
- (2) As of the date of this ordinance, the City has limited tax general obligation indebtedness, consisting of bonds outstanding in the principal amount of \$20,830,000, 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) As of the date of this ordinance, the City has no unlimited tax general obligation indebtedness for capital purposes only for general municipal purposes or for City-owned water, artificial light, and sewers; and \$12,635,000 outstanding for capital purposes only for acquiring or developing open space, park facilities, and capital facilities associated with economic development. The indebtedness described in this paragraph has been incurred with the approval of the requisite proportion of the City’s qualified voters at an election meeting the minimum turnout requirements, within the limit of up to 2½% of the value of the taxable property within the City for general municipal purposes (when combined with the outstanding limited tax general obligation indebtedness), 2½% for utility purposes and 2½% for open space, parks and economic development purposes.

(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 and sell the Bond to the Purchaser, pursuant to the terms set forth in the Purchase Offer consistent with this ordinance.

Section 3. Authorization of Bond. The City is authorized to borrow money on the credit of the City and issue a negotiable limited tax general obligation bond evidencing indebtedness in the amount of \$3,565,000 to provide funds necessary to carry out the Project and to pay the costs of issuance and sale of the Bond. The proceeds of the Bond allocated to paying the cost of the Project shall be deposited as set forth in Section 8 of this ordinance and shall be used to carry out the Project, or a portion of the Project, in such order of time as the City determines is advisable and practicable.

Section 4. Description of Bond. The Bond shall be issued as a single bond in the amount of \$3,565,000, shall be dated the Issue Date, shall bear interest from its date, shall be issued in fully registered form and shall be numbered R-1. The proceeds of the Bond, after payment of costs of issuance shall be deposited as set forth in Section 8 and shall be used to carry out the Project, or a portion of the Project, in such order of time as the City determines is advisable and practicable.

The Bond will bear interest at a fixed rate of 3.75% per annum, computed on the basis of a 360-day year consisting of twelve 30-day months. Interest on the Bond will be paid each June 1 and December 1, beginning June 1, 2014, to the Maturity Date or earlier prepayment of the Bond. Principal of the Bond will be due annually on each December 1, beginning December 1, 2014. A debt service schedule describing the installments of principal and interest on the Bond will be attached to the Bond form as Exhibit A. The final installment payment of principal of, redemption premium, if any, and interest on the Bond, whether on the Maturity Date or upon prepayment shall be in an amount equal to the remaining principal and interest due on the Bond.

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

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

(b) *Bond Registrar; Duties.* The Fiscal Agent is appointed to act as Bond Registrar for the Bond. 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) *Transfer and Exchange.* The Bond may be assigned or transferred only in whole to a qualified institutional buyer as defined in Rule 144A of the Securities Act of 1933, as amended.

(d) *Bond Register.* The Bond Registrar shall keep, or cause to be kept, sufficient books for the registration and transfer of the Bond, which shall be open to inspection by the City



at all times. The Bond Registrar shall serve as the City's authenticating agent and registrar for the Bond and shall comply fully with all applicable federal and state laws and regulations respecting the carrying out of those duties. The Bond Registrar is authorized, on behalf of the City, to authenticate and deliver the Bond should it be 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 and the System of Registration.

Section 6. Form and Execution of Bond.

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

(b) *Authentication.* Only if the Bond bears a Certificate of Authentication in substantially the following form, manually signed by the Bond Registrar, shall it 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 Shoreline, Washington, Limited Tax General Obligation Bond, 2013." 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 Bond. Principal of, redemption premium, if any, and interest on the Bond shall be payable in lawful money of the United States of America. Principal of, redemption premium, if any, and interest on the Bond 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.

Section 8. Funds and Accounts; Deposit of Proceeds.

(a) *Bond Fund.* The Bond Fund is created as a special fund of the City for the sole purpose of paying principal of, redemption premium, if any, and interest on the Bond and other general obligation bonds of the City. Bond proceeds in excess of the amounts needed to pay the costs of the Project and the costs of issuance, if any, shall be deposited into the Bond Fund. All amounts allocated to the payment of the principal of, redemption premium, if any, and interest on the Bond shall be deposited in the Bond Fund as necessary for the timely payment of amounts due with respect to the Bond. The principal of, redemption premium, if any, 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 has been previously created as a fund of the City for the purpose of paying 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 Provision of Bond. The Bond shall be subject to optional prepayment, in whole on any date, with 30 days notice to Bank, from and after December 1, 2023, at a price of par, plus accrued interest to the date of prepayment.

Section 10. Special Optional Prepayment of Bond. The City shall have the option, on three separate occasions of its selection, with 30 days' notice to Bank, to prepay the Bond in part up to an aggregate of \$1,500,000 of the Bond at a price of 101% of the principal amount to be prepaid, plus accrued interest thereon to each prepayment date. After each such prepayment, the Bond shall be reamortized as to principal in inverse order of maturity and a revised Exhibit A to the Bond shall be prepared consistent with the terms of this ordinance, subject to approval by Bond Counsel and, approval by the Bank, and shall replace the previous Exhibit A to the Bond.

Section 11. Failure To Pay Bond. If the principal of the Bond is not paid when the Bond is properly presented at its maturity date or date fixed for prepayment, 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, and the Bond has been called for payment by giving notice of that call to the Registered Owner.

Section 12. Pledge of Taxes. The Bond constitutes a general indebtedness of the City and is 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, redemption premium, if any, 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, redemption premium, if any, and interest on the Bond as the same becomes due. The full faith, credit and resources of the City are pledged irrevocably for the prompt payment of the principal of, redemption premium, if any, and interest on the Bond and such pledge shall be enforceable in mandamus against the City.

Section 13. Tax Covenants.

(a) *Preservation of Tax Exemption for Interest on Bond.* The City covenants that it will take all actions necessary to prevent interest on the Bond from being included in gross



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income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the Bond or other funds of the City treated as proceeds of the Bond that will cause interest on the Bond to be included in gross income for federal income tax purposes.

(b) *Post-Issuance Compliance.* The Finance Officer is authorized and directed to adopt and implement the City's written procedures to facilitate compliance by the City with the covenants in this ordinance and the applicable requirements of the Code that must be satisfied after the Issue Date to prevent interest on the Bond from being included in gross income for federal tax purposes.

(c) *Designation of Bond as a "Qualified Tax-Exempt Obligation."* The City designates the Bond as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code, and makes the following findings and determinations:

(1) the Bond is not a "private activity bond" 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) which 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 Bond is issued will not exceed \$10,000,000; and

(3) the amount of tax-exempt obligations, including the Bond, 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 Bond is issued does not exceed \$10,000,000.

Section 14. Refunding or Defeasance of the Bond. 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, redemption premium, if any, and interest on the Bond (the "defeased Bond"); (b) redeeming the defeased Bond prior to its maturity in accordance with the redemption provisions set forth herein; 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 Bond in accordance with its terms, then all right and interest of the Owner of the defeased Bond in the covenants of this ordinance and in the funds and accounts obligated to the payment of the defeased Bond shall cease and become void. Thereafter, the Owner of the defeased Bond shall have the right to receive payment of the principal of, redemption premium, if any, and interest on the defeased Bond solely from the trust account and the defeased Bond 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 Bond 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 the defeasance shall be conducted, in the manner prescribed in this ordinance for the redemption of the Bond.

Section 15. Sale and Delivery of the Bond.

(a) *Approval of Purchase Offer; Delivery of Bond.* The Bank has submitted a proposal to purchase the Bond from the City under the terms and conditions of the Purchase Offer. The City Council finds that accepting the Purchase Offer is in the City's best interest and therefore accepts the Purchase Offer. There will be no loan fee due to the Bank. The City will be responsible for all other costs of issuance of the Bond. At the discretion of the Finance Officer, the amount of Bond Counsel's fee, Financial Advisor's fee and other costs of issuance may be withheld from the Bond proceeds and wire transferred on behalf of the City at closing.

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

Section 16. General Authorization and Ratification. The Finance Officer 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 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 of a summary consisting of its title as required by law.

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PASSED by the City Council of the City of Shoreline, Washington, at an open public meeting thereof, this 12<sup>th</sup> day of August, 2013, and signed in authentication of its passage this 12<sup>th</sup> day of August, 2013.

  
\_\_\_\_\_  
Keith A. McGlashan, Mayor

ATTEST:

  
\_\_\_\_\_  
Scott Passey  
City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Bond Counsel

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**CERTIFICATION**

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

1. The attached copy of Ordinance No. 670 (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 August 12, 2013, 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 of a summary consisting of its title in the City's official newspaper, which publication date will be August 15, 2013.

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.

Dated: August 12, 2013.

CITY OF SHORELINE, WASHINGTON

  
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Scott Passey, City Clerk