

**PORT OF ILLAHEE
KITSAP COUNTY, WASHINGTON**

LIMITED TAX GENERAL OBLIGATION BOND, 2019

RESOLUTION NO. 2019-06

A RESOLUTION OF THE PORT COMMISSION OF THE PORT OF ILLAHEE, KITSAP COUNTY, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A BOND TO EVIDENCE A LOAN IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$160,000; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF THE BOND; AND APPROVING THE SALE OF SUCH BOND.

ADOPTED ON DECEMBER 11, 2019

PREPARED BY:

K&L GATES LLP
Seattle, Washington

TABLE OF CONTENTS*

	<u>Page</u>
Section 1. Definitions.....	1
Section 2. Authorization of the Bond	3
Section 3. Registration, Payments and Transfer	4
Section 4. Prepayment	4
Section 5. Sale of the Bond and Authorization to Port Officials	5
Section 6. Closing Procedures	5
Section 7. Form of Bond.....	5
Section 8. Execution of Bond	7
Section 9. Tax Covenants	8
Section 10. Bond Fund and Provision for Tax Levy Payments	8
Section 11. No Undertaking to Provide Ongoing Disclosure and Information to Bank.....	9
Section 12. Lost, Stolen or Destroyed Bond	9
Section 13. Amendment to Resolution No. 2019-03	9
Section 14. Severability	9
Section 15. Effective Date	10

Exhibit A – Purchase Offer

* This Table of Contents is provided for convenience only and is not a part of this resolution.

RESOLUTION NO. 2019-06

A RESOLUTION OF THE PORT COMMISSION OF THE PORT OF ILLAHEE, KITSAP COUNTY, WASHINGTON, PROVIDING FOR THE ISSUANCE AND SALE OF A BOND TO EVIDENCE A LOAN IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED \$160,000; PROVIDING THE DATE, FORM, TERMS AND MATURITY OF THE BOND; AND APPROVING THE SALE OF SUCH BOND.

WHEREAS, the Port of Illahee, Kitsap County, Washington (the "Port"), a municipal corporation of the State of Washington, owns and operates a public facilities; and

WHEREAS, the Port is authorized by RCW 53.36.030 and Ch. 39.46 RCW to borrow money and issue general obligation bonds payable, *inter alia*, from regular tax levies of the Port; and

WHEREAS, the Port has an outstanding loan with Kitsap Bank (the "Bank") that financed the property at 5560 Ocean View originally used as a meeting space for the Port and currently maintained for short term rentals pending completion of the Port's Comprehensive Plan; and

WHEREAS, the Bank, in an offer dated December 6, 2019 (the "Purchase Offer"), has offered to refinance the 2009 loan in order to reduce interest costs to the Port; and

WHEREAS, the Purchase Offer is incorporated herein and is attached as Exhibit A, and the Commission wishes to accept such offer on the terms and conditions set forth therein and herein;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF ILLAHEE, KITSAP COUNTY, WASHINGTON, as follows:

Section 1. Definitions. As used in this resolution, the following words shall have the following meanings, unless a different meaning clearly appears from the context.

Bank means Kitsap Bank, Port Orchard, Washington.

Bond means the Port of Illahee, Kitsap County, Washington, Limited Tax General Obligation Bond, 2019, issued pursuant to this resolution.

Bond Fund means the Port of Illahee Bond Redemption Fund, 2019, created in the office of the Treasurer of the Port pursuant to Section 10 of this resolution.

Bond Register means the books or records maintained by the Bond Registrar containing the name and mailing address of the owner of the Bond or nominee of such owner and the principal amount outstanding.

Bond Registrar means U.S. Bank National Association, the fiscal agent of the State of Washington, 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. The term **Bond Registrar** also shall include any successor Bond Registrar appointed by the Treasurer as permitted by law.

Closing means the date of issuance and delivery of the Bond to the Bank.

Code means the federal Internal Revenue Code of 1986, as amended from time to time, and the applicable regulations thereunder.

Commission means the Port Commission, as general legislative authority of the Port as the same shall be duly and regularly constituted from time to time.

Designated Port Representative means the President of the Port Commission or such other persons as may be appointed by such persons in writing delivered to the Bank and the Bond Registrar.

Interest Rate means the fixed rate per annum on the Bond which shall be established, on the date hereof, based on the Bloomberg Bank Qualified GO Bond 'A' Rated Fair Value curve plus a spread of 100 basis points (1.00%) to the average maturity of the Bond.

Port means the Port of Illahee, Kitsap County, Washington, a political subdivision duly organized and existing under and by virtue of the laws of the State of Washington.

Purchase Offer means the Bank's commitment letter to purchase the Bond, dated December 6, 2019, attached hereto as Exhibit A.

Treasurer means the Treasurer of Kitsap County, as *ex officio* Treasurer of the Port, or any successor to the functions of such Treasurer.

Rules of Interpretation. In this resolution, unless the context otherwise requires:

(a) The terms "hereby," "hereof," "hereto," "herein," "hereunder" and any similar terms, as used in this resolution, refer to this resolution as a whole and not to any particular article, section, subdivision or clause hereof, and the term "hereafter" shall mean after, and the term "heretofore" shall mean before, the date of this resolution;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and sections of this resolution, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this resolution, nor shall they affect its meaning, construction or effect;

(e) All references herein to "articles," "sections" and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

Section 2. Authorization of Bond. For the purpose of refinancing an existing loan with the Bank, the Port shall issue its limited tax general obligation bond in the principal amount of not to exceed \$160,000 (the "Bond"). The Bond shall be designated as the "Port of Illahee, Kitsap County, Washington Limited Tax General Obligation Bond, 2019," shall be dated as of the date of its original issuance, shall be issued as a single instrument, fully registered form in

the denomination of not to exceed \$160,000. The Bond shall bear interest on unpaid principal at the Interest Rate. Interest shall be calculated on the basis of a year of 360 days and 12 months of 30 days. The Bond shall be repayable in semiannual installments of principal and interest on each June 1 and December 1, with the final payment of all principal and interest due on December 1, 2034. The Bank shall provide an amortization schedule of principal and interest which shall be attached to and included with the Bond.

Section 3. Registration, Payments and Transfer. At the request of the Treasurer, the fiscal agent of the State of Washington shall act as the Bond Registrar. The duties of the Bond Registrar hereunder shall be limited to authenticating the Bond and to remitting money to the Bank on the payment dates as provided therein. The Bond Registrar is authorized, on behalf of the Port, to authenticate and deliver the Bond and to carry out all of Bond Registrar's powers and duties under this resolution.

Principal of and interest on the Bond shall be payable in lawful money of the United States of America. Installments of principal of and interest on the Bond shall be paid by check, wire, or electronic transfer on the date due to the Bond; *provided, however*, the final installment of principal on the Bond shall be payable only upon presentation and surrender of the Bond by the Bank to the Bond Registrar.

The Bond shall not be transferable, except in whole to a financial institution and only if endorsed in the manner provided therein and surrendered to the Bond Registrar. The Bank will not transfer the Bond to a subsequent investor unless the Bond causes such investor to receive such information regarding the Port and the Bond as is necessary to comply with applicable securities laws.

Section 4. Prepayment. The Port reserves the right to prepay principal of the Bond in advance of the scheduled payments, in whole or in part, at any time, with no prepayment penalty. The Port will notify the Bond Registrar, the Treasurer, and the Bank at least 15 days in

advance of its intent to prepay. Prepayments shall be applied first to interest and then to principal.

Section 5. Sale of the Bond and Authorization to Port Officials. The Port hereby ratifies and confirms its acceptance of the Purchase Offer attached as Exhibit A, to purchase the Bond on the terms specified therein and in this resolution. The proper officials of the Port are hereby authorized and directed to do all things necessary for the prompt execution and delivery of the Bond and the items required to be delivered to the Bank under the terms of the Purchase Offer and for proper use and application of the proceeds of sale thereof. In accordance with the Purchase Offer, the Port will pay the Bank a loan fee of \$750.00, payable on the date of issuance of the Bond.

Section 6. Closing Procedures. The closing and delivery of the Bond may be scheduled for any date following the adoption of this resolution. The executed and authenticated Bond shall be delivered to the Bank, and the Bank shall cancel and surrender the prior loan documentation with respect to the 5560 Ocean View financing documents.

Section 7. Form of Bond. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA

NO. R-1

\$160,000

STATE OF WASHINGTON

PORT OF ILLAHEE, KITSAP COUNTY
LIMITED TAX GENERAL OBLIGATION BOND, 2019

INTEREST RATES AND
PAYMENT SCHEDULE:

As shown on the attached amortization schedule

REGISTERED OWNER:

KITSAP BANK
619 BAY STREET, P.O. BOX 9
PORT ORCHARD, WA 98366

TAX IDENTIFICATION #:

91-0283150

PRINCIPAL AMOUNT:

ONE HUNDRED SIXTY THOUSAND AND 00/100 (\$160,000)

The Port of Illahee, Kitsap County, Washington, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (herein called the "Port"), hereby acknowledges itself to owe and for value received, promises to pay to the Registered Owner identified above, or registered assigns, the Principal Amount. This bond shall bear interest on unpaid principal from its date or the most recent date to which interest has been paid at the Interest Rate specified above, and shall be repayable semiannually installments of principal and interest commencing on _____, and on each June 1 and December 1 thereafter as shown on the attached amortization schedule, with final payment of all outstanding principal and interest thereon at final maturity of this bond on December 1, 20___. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Both principal of and interest on this bond are payable in lawful money of the United States of America. Installments of the principal of and interest on this bond shall be paid by check or draft of the fiscal agent of the State of Washington (the "Bond Registrar") mailed on the date such interest is due or by electronic funds transfer made on the date such interest is due to the registered owner or nominee at the address appearing on the Bond Register. Upon final payment of all installments of principal and interest thereon, this bond shall be submitted to the Bond Registrar for cancellation and surrender.

This bond is issued pursuant to Resolution No. 2019-06 of the Port (the "Bond Resolution") to refinance the costs of acquiring real property. Capitalized terms appearing on this bond and not otherwise defined herein shall have the meanings given such terms in the Bond Resolution.

The Port reserves the right to prepay principal of this bond in advance of the scheduled maturity set forth above, in whole or in part, at any time, with no prepayment penalty. The Port will notify the Bond Registrar, the Treasurer, and the Registered Owner at least 15 days in advance of its intent to prepay.

This bond may be transferred only in whole to a financial institution and only if endorsed in the manner provided in the Bond Resolution and surrendered to the Bond Registrar. The Registered Owner will not transfer this bond to a subsequent investor unless the Registered Owner causes such investor to receive such information regarding the Port and this bond as is necessary to comply with applicable securities laws.

This bond is not a "private activity bond" as such term is defined in the Internal Revenue Code of 1986, as amended (the "Code"). This bond has been designated by the Port as a "qualified tax exempt obligation" under Section 265(b) of the Code for banks, thrift institutions and other financial institutions.

The Port hereby irrevocably covenants that it will levy taxes annually upon all the taxable property in the Port within the levy limits permitted to the Port without a vote of the electors and in amounts sufficient, with other monies legally available therefor, to pay the principal of and interest on this bond as the same shall become due. The full faith, credit and resources of the Port are hereby irrevocably pledged for the annual levy and collection of such taxes and the prompt payment of such principal and interest. The pledge of tax levies may be discharged prior to maturity of this bond by making provision for the payment thereof on the terms and conditions set forth in the Bond Resolution.

Authentication shall be conclusive evidence that the Bond as authenticated has been duly executed, authenticated and delivered hereunder and is entitled to the benefits of this resolution.

In case either of the officers of the Port who shall have executed the Bond shall cease to be such officer or officers of the Port before the Bond so signed shall have been authenticated or delivered by the Bond Registrar, or issued by the Port, such Bond may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding upon the Port as though those who signed the same had continued to be such officers of the Port. The Bond also may be signed and attested on behalf of the Port by such persons as at the actual date of execution of such Bond shall be the proper officers of the Port although at the original date of such Bond any such person shall not have been such officer.

Section 9. Tax Covenants.

(a) *Arbitrage Covenant.* The Port covenants that it will not take or permit to be taken on its behalf any action that would adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bond and will take or require to be taken such acts as may reasonably be within its ability and as may from time to time be required under applicable law to continue the exclusion from gross income for federal income tax purposes of the interest on the Bond.

(b) *Designation under Section 265(b).* The Port hereby designates the Bond as a “qualified tax-exempt obligation” under Section 265(b)(3) of the Code for banks, thrift institutions and other financial institutions. The Port does not anticipate that it will issue more than \$10,000,000 in qualified tax-exempt obligations during 2019.

Section 10. Bond Fund and Provision for Tax Levy Payments. A special fund of the Port known as the “Port of Illahee Bond Redemption Fund, 2019” (the “Bond Fund”) is hereby authorized to be created in the office of the Treasurer. The Bond Fund shall be drawn upon for the sole purpose of paying the principal of and interest on the Bond.

The Port hereby further irrevocably covenants that, unless the principal of and interest on the Bond are paid from other sources, it will make annual levies of taxes upon all of the property within the Port subject to taxation within and as a part of the tax levy permitted to the Port without a vote of the electors in amounts sufficient to pay such principal and interest as the same shall become due. The full faith, credit and resources of the Port are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest.

Section 11. No Undertaking to Provide Ongoing Disclosure and Information to Bank. The Bond is not subject to Rule 15c2-12 of the Securities and Exchange Commission under the Securities Exchange Act of 1934, and the Port makes no undertaking regarding ongoing disclosure with respect to the Bond.

The Port shall provide the Bank its annual financial statements (including audited statements when received) for as long as the Bond is outstanding and held by the Bank.

Section 12. Lost, Stolen or Destroyed Bond. In case the Bond shall be lost, stolen or destroyed, the Bond Registrar may execute and deliver a new Bond of like date, number and tenor to the Bank thereof upon the Bank's paying the expenses and charges of the Port and the Bond Registrar in connection therewith and upon his filing with the Port evidence satisfactory to the Port and the Bond Registrar that such Bond was actually lost, stolen or destroyed and of his ownership thereof, and upon furnishing the Port and Bond Registrar with indemnity satisfactory to the Port.

Section 13. Amendment to Resolution No. 2019-03. The commitment letter from Kitsap Bank dated October 8, 2019 attached and approved pursuant to Resolution No. 2019-03 is hereby amended and replaced with the commitment letter dated December 6, 2019 attached hereto as Exhibit A.

Section 14. Severability. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the Port shall be declared by any court


of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements in this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bond.

Section 15. Effective Date. This resolution shall become effective immediately upon its adoption.

ADOPTED BY THE PORT OF ILLAHEE COMMISSIONERS at a regular meeting held this 11th day of December, 2019.

PORT OF ILLAHEE,
KITSAP COUNTY, WASHINGTON

By 
James Aho, Commissioner

By 
Jonathan Buesch, Commissioner

By 
John Burton, Commissioner

EXHIBIT A

PURCHASE OFFER



December 6, 2019

Commissioners
Port of Illahee
P.O. Box 2357
Bremerton, WA 98310

Thank you for the opportunity to propose an offer on the Port's borrowing request. Kitsap Bank (the "Bank") has approved the borrowing facility outlined in this commitment letter under the following terms:

1. Borrower: Port of Illahee (the "Port")
2. Amount: \$160,000.00 or amounts as needed to fully refinance existing Kitsap Bank loan
3. Form: Fully registered, tax-exempt private-activity limited tax general obligation bond (the "Bond") issued by the Port and purchased by the Bank at private sale.
4. Purpose: Refinance existing Kitsap Bank loan for the Port's 5560 Ocean View property
5. Terms: The Bonds will mature 15 years with semi-annual interest and principal payments due on June 1 and December 1 of each year commencing on June 1, 2020 to the maturity or earlier prepayment of the Bonds. For illustrative purposes, a proposed amortization schedule is set forth in the attached Exhibit 1 assuming \$160,000.00 is the total amount borrowed. The final amortization schedule will be based on the amounts needed to fully pay off the existing loan and on interest rates as set forth below.
6. Interest Rate: Interest will be at a fixed rate per annum on a 30/360 basis established at the time of adoption of the Port authorizing resolution. The rate will be established based on the Bloomberg Bank Qualified A rated fair value curve plus a spread of 100 basis points (1.00%) to the average maturity for the bond.
7. Security: The Bonds will be a limited tax general obligation of the Port. For as long as the Bonds are outstanding, the Port will irrevocably pledge that it will budget and appropriate from all monies legally available, within the constitutional and statutory limitations provided by law without a vote of the electors of the Port, amounts sufficient to pay the principal of and interest on the Bonds when due. The full faith, credit, and resources of the Port would be pledged irrevocably for the budget and appropriation of those amounts and the prompt payment of that principal and interest
8. Transferability: The Bank will hold the Bond with no intent to sell or transfer. However, the Bond will include provisions allowing transfer to another qualified purchaser.

kitsapbank.com

619 Bay Street | Port Orchard, WA 98366 | 360.876.7800

9. **Prepayment:** The Port may prepay the Bond, in whole or in part, at any time. The Bank will not charge a prepayment fee on any amounts prepaid by the Port. The Port will provide the Bank with written notice of any intended prepayment at least 15 days prior to such prepayment date. Partial principal prepayments will be applied to the next scheduled amount due in succession up to the final amount due for complete repayment.
10. **Fees:** The Bank will charge a fee of \$750.00 of the approved Bond amount, due at closing. All legal costs incurred by the Port for purposes of issuing the Bond will be the responsibility of the Port. Fees and legal costs may be paid from Bond proceeds.
11. **Additional Terms:** The Bond documents will be in the standard forms customarily required by the Bank for municipal funding and may include additional terms and conditions not discussed above. At the date of closing the Bond, the financial condition and credit of the Port and all other features of this transaction would be as represented to the Bank without material adverse change. In the event of adverse material changes in the credit worthiness of the Port, including litigation involving or claims filed against the Port, any offers or commitments would terminate upon notice by the Bank. The Port will designate the Bond as a "tax-exempt obligation". The Port will provide the Bank with annual financial statements during the period the Bond is outstanding.
12. **Acceptance:** This commitment is not binding unless the Port returns a signed copy of this letter via mail or email prior to close of business on December 31, 2019 at which time the commitment will expire without notice. If, after acceptance, the Bond has not closed by January 31, 2020, this commitment will expire without notice.

Oral agreements or oral commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt are not enforceable under Washington law.

If this commitment is acceptable to the Port, please sign and return the enclosed copy. Thank you for the opportunity to work with you.

Sincerely,


Rich Martinez
 SVP Director Municipal Banking

Acknowledged and accepted this _____ day of _____, 2019

Port of Illahee

By: _____

kitsapbank.com

619 Bay Street | Port Orchard, WA 98366 | 360.876.7800

CERTIFICATE

I, the undersigned, President of the Port Commission (the "Commission") of the Port of Illahee, Kitsap County, Washington (the "Port"), DO HEREBY CERTIFY:

1. That the attached resolution is a true and correct copy of Resolution No. 2019-06 of the Port Commission (the "Resolution"), duly adopted at a regular meeting thereof held on the 11th day of December, 2019; and

2. That said meeting was duly convened and held in all respects in accordance with law, due and proper notice of such meeting was given, that a legal quorum was present throughout the meeting and a legally sufficient number of members of the Commission voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of December, 2019.



President, Port Commission